

TOWN OF CEDAR POINT



Charter and Code of Ordinances

November 20, 2020

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DISCLAIMER

The documents that follow this disclaimer are provided as a general guide and may not reflect the most current ordinances adopted by the Town of Cedar Point. These documents should not be relied upon as the current and complete versions of the documents and the updated and official printed copy of the documents in possession of the Cedar Point Town Clerk should be consulted prior to any action being taken.

For further information regarding the official version of these documents, please contact the Town Clerk, Town of Cedar Point, PO Box 1687, Cedar Point, NC 28584, telephone 252-393-7898.

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CHARTER FOR THE TOWN OF CEDAR POINT

Article I. Incorporation and Corporate Powers.

§ 1.1. Incorporation and corporate powers.

The inhabitants of the Town of Cedar Point are a body corporate and politic under the name 'Town of Cedar Point'. Under that name they have all the powers, duties, rights, privileges, and immunities conferred and imposed upon cities by the general law of North Carolina.

Article II. Corporate Boundaries.

§ 2.1. Town Boundaries.

Until modified in accordance with law, the boundaries of the Town of Cedar Point are as follows:

In Carteret County, beginning at a concrete monument standing in the western margin of N.C. Secondary Road no. 1113, said monument being 182.63 feet north of a culvert under said road which is approximately 1151 feet north of the intersection of Secondary Road no. 1113 and N.C. Highway 24; thence from the above described point of beginning north 82 degrees 26 minutes west 1756.98 feet to an iron pipe in the run of a branch. Thence with said branch in a westerly direction to the head of Boat House Creek, thence with ordinary high water mark down the southern side of Boat House Creek to White Oak River, thence in a southwesterly direction with the ordinary high water mark to the south side of the southern bridge across White Oak River, thence with the ordinary high water mark of White Oak River in a southeasterly direction to Bogue Sound, thence with the ordinary high water mark of Bogue Sound to the western right of way of N.C. Highway 58, thence with the western right of

way of N.C. Highway 58 in a northerly direction to a point, said point being south 82 degrees 26 minutes east approximately 470 feet from the point of beginning, thence north 82 degrees 26 minutes west approximately 470 feet to the point and place of beginning.

(Editorial note: Additional lands have been added to the corporate limits of the Town through annexations. The above describes the original corporate limits of the Town.)

Article III. Governing Body.

§ 3.1. Structure of governing body; number of members.

The governing body of the Town of Cedar Point is the Town Council, which has five members. *(November 20, 2020)*

§ 3.2. Manner of electing board.

The qualified voters of the entire Town elect the members of the Council.

§ 3.3. Term of office of Council members.

Members of the Town Council are elected to four-year terms, except at the initial election in 1989, the two highest vote getters shall be elected to four-year terms, and the next two highest vote getters shall be elected to two-year terms.

§ 3.4 Selection of Mayor; term of office.

The qualified voters of the entire town elect the Mayor. A mayor shall be elected in November, 2007 and quadrennially thereafter for a four year term. *(Ordinance dated 11/22/2005)*

Article IV. Elections.

§ 4.1. Conduct of Town elections.

The Town Council shall be elected on a nonpartisan basis and the results determined by the plurality method as provided by G.S. 163-292.

Article V. Administration.

§ 5.1. Manager-Council plan.

The Town of Cedar Point operates under the Manager-Council plan as provided by Part 2 of Article 7 of Chapter 160A of the General Statutes."

§ 5.2. Until members of the Town Council are elected in 1989 in accordance with the Town Charter and the law of North Carolina, Elbert A. Guthrie shall serve as Mayor and A.D. Ennett, Jr., William Aman, John R. Jones, and Harry Redfearn shall serve as members of the Town Council.

§ 5.3. From and after July 1, 1988, the citizens and property in the Town of Cedar Point shall be subject to municipal taxes levied for the year beginning July 1, 1988, and for that purpose the town shall obtain from Carteret County a record of property in the area herein incorporated which was listed for taxes as of January 1, 1988. The Town may adopt a budget ordinance for fiscal year 1988-89 without following the timetable in the Local Government Budget and Fiscal Control Act.

§ 5.4. This act shall become effective July 1, 1988.

(Session Laws of 1987, Chapter 1005)

CODE OF ORDINANCES

TOWN OF CEDAR POINT

NORTH CAROLINA

Chapter 1

General Provisions.

§ 1-1. Title.

This Code shall be known and may be cited as "The Code of Ordinances the Town of Cedar Point, North Carolina," and may also be referred to as "Cedar Point Municipal Code."

§ 1-2. Definitions and Rules of Construction.

For the purpose of this Code and any other ordinances heretofore or hereafter adopted the following definitions and rules of construction shall be observed, unless inconsistent with the manifest intent of the board of commissioners or the context clearly requires otherwise:

And, or. The term "and" may be read as "or" and "or" may be read as "and" where the sense requires it.

Board of commissioners, town board, or town council. The terms "board of commissioners," "town board" and "town council" are interchangeable and mean the governing body of the Town of Cedar Point, North Carolina.

Clerk or town clerk. The term "clerk" or "town clerk" means the municipal clerk duly appointed pursuant to law.

Commissioners, council members, councilmen. These terms are interchangeable and mean the members of the governing body of the Town of Cedar Point.

County. The term "county" means the County of Carteret, State of North Carolina.

Department. The term "department" means an organizational unit of the government established or designated by ordinance or this Code as a department, together with any agency or instrumentality of the government assigned to

such organizational unit by the board of commissioners.

Gender. The masculine gender includes the feminine and neuter.

G.S. The abbreviation "G.S." refers to the General Statutes of North Carolina.

In the town. The term "in the town" means any territory and/or jurisdiction of which for the exercise of its regulatory power has been conferred on the town by public or private law.

Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Laws. The term "laws" means the laws of the State of North Carolina, and, if context so implies, the laws of the United States of America.

Licensed. The term "licensed" means licensed in accordance with the appropriate section or chapter of this revision.

Month. The term "month" means a calendar month.

Oath. The term "oath" means and includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and, in such cases, the words "swear" and "sworn" shall be equivalent to the words "affirm" and "affirmed."

Ordinance. The term "ordinance" means any act of local legislation heretofore or hereafter adopted, and including this revision, so long as it is adopted by the procedure required for the adoption of an ordinance and so long as it remains in force and effect pursuant to law.

Owner. The term "owner," applied to a building or land, means and includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or part of such building or land.

Person. The term "person" means any individual, natural person, partnership, joint venture, society, association, club, trustee, trust, corporation or unincorporated group; or any officer, agent, employee, servant, factor of any kind or personal representative of any thereof in any capacity, acting either for himself or for any other person, under either personal appointment or pursuant to law.

Preceding, following. The terms "preceding" and "following" mean next before and next after, respectively.

Property. The term "property" means and includes real and personal property.

Shall, may. The term "shall" is mandatory and the term "may" is permissive.

Sidewalk. The term "sidewalk" means any portion of a street between the curb line, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians, excluding parkways.

Signature or subscription. The term "signature" or "subscription" means a person's name written by himself and shall include a mark when a person cannot write.

Singular number. The singular number includes the plural and the plural the singular.

State. The term "state" or "this state" means the State of North Carolina.

Statute. Any citation of a statute, law or ordinance contained in this Code shall be deemed to refer to such statute, law or ordinance as amended, whether or not such designation is included in the citation.

Street. The term "street" means and includes avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and approaches thereto, and all other public thoroughfares in the town, and means the entire width thereof between abutting property lines. It shall be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the board of commissioners.

Tenant or occupant. The term "tenant" or "occupant," when applied to a building or land, means and includes any person who occupies the whole or part of such building or land, whether alone or with others.

Tense. Words used in the past or present tense include the future as well as the past and present.

Time. Whenever a specific time is used in this Code, it shall mean the prevailing and established time in effect in the State of North Carolina during any day in any year.

Town. The term "town" means the Town of Cedar Point, in the County of Carteret, and State of North Carolina.

Writing or in writing. The term "writing" or "in writing" includes printing, typewriting, and any other mode of communication using paper or similar material which is in general use, as well as legible handwriting.

Year. The term "year" means a calendar year.

§ 1-3. Provisions of Code considered to be Continuation of Existing Ordinances.

The provisions appearing in this Code, so far as they are the same as those of prior town ordinances, shall be considered as continuations thereof and not as new enactments.

§ 1-4. Repeal, expiration and revival of ordinances.

(a) The repeal of an ordinance, or its expiration by virtue of any provisions contained therein, shall not affect any right accrued, any offense committed, any penalty or punishment incurred or any proceeding commenced before the repeal took effect or the ordinance expired.

(b) When an ordinance which repealed another shall itself be repealed, the previous ordinance shall not be revived without express words to that effect.

§ 1-5. General Penalty; Enforcement of Code.

(a) *Civil penalty.* Any person who violates any provision of this Code shall be subject to a civil penalty in an amount not to exceed \$500.00; however, if a different civil penalty is provided in this Code for a violation of a specific chapter, the specific penalty will apply.

(1) Civil penalties shall be assessed by written notice from the Town Manager, or his designee, to the offender describing the violation and the amount of the penalty. The amount of penalty shall be determined by the Town Manager and shall be commensurate with the violation. Where applicable, the notice shall state that each day the violation continues shall be an additional and separate violation subject to the same daily civil penalty set forth in the notice. The notice shall further state that no additional notice will be sent for continuing violations and penalties.

(2) The notice shall inform the recipient that he, within ten days of receipt of notice of the violation, may, in writing, request a hearing before the Town Manager on the notice of violation and assessment of the penalty. If a request for a hearing is made, the Town Manager shall schedule the hearing as soon

as practical. Following the hearing, the Town Manager, in writing, shall affirm, reverse, or modify the notice of violation and shall have the authority to reduce or reverse the imposition of the penalty assessed.

(3) The decision of the Town Manager may be appealed by written notice to the board of commissioners. Notice of appeal to the board must be given within ten days of the date of the Town Manager's written decision. If an appeal is made, a hearing shall be held before the board of commissioners as soon as practical. The board, by a written order entered as soon after the hearing as practical, shall affirm, reverse, or modify the notice of violation and shall have the authority to reduce or reverse the imposition of the penalty assessed.

(4) Civil penalties shall be paid to the town within 30 days after the assessment is made if no hearing is requested, or within 30 days after the assessment is affirmed if a hearing by the Town Manager is requested or an appeal to the town board is made. If not so paid, the town may initiate a civil action in the nature of collection of a debt to collect any unpaid penalty.

(5) The person, firm or corporation who violates any provision of this Code shall be subject to the civil penalty provided herein; however, there is a rebuttable presumption that the owner of property where a violation occurs is responsible for the violation.

(6) Payment of a civil penalty shall not be evidence of, or an admission of, criminal guilt.

(b) Misdemeanor offense. Pursuant to N.C.G.S. § 160A-175(b), violations of this Code shall not be considered a misdemeanor offense, unless otherwise specifically stated herein. *(Amended April 28, 2020)*

(c) Traffic and parking offenses. Notwithstanding the foregoing subsection (b) of this § 1-5, if any person shall violate a provision of this Code regulating the operation or parking of vehicles, he shall be responsible for an infraction and shall be required to pay a penalty of not more than \$50.00. Each day's continuing violation constitutes a separate offense.

(d) Equitable remedies. Any provision of this Code or other town ordinance may be enforced by injunction, order of abatement, or any other appropriate equitable remedy. When a violation of this Code occurs, the town may apply to the appropriate division of the general court of justice for an appropriate equitable remedy and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.

(e) Injunction and abatement.

(1) Any provision of this Code making unlawful a condition existing upon or use made of real property may be enforced by injunction and order of abatement, and the general court of justice shall have jurisdiction to issue such orders. When a violation of this Code occurs, the town may apply to the appropriate division of the general court of justice for a mandatory or prohibitory injunction and order of abatement commanding the defendant to correct the unlawful condition upon or cease the unlawful use of the property. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.

(2) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed; that fixtures, furniture, or other movable property be removed from buildings on the property; that grass and weeds be cut; that improvements or repairs be made; or that any other action be taken that is necessary to bring the property into compliance with the Code. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the town may execute the order of abatement. The town shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and materialman's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

(f) Enforcement of ordinances. The provisions of this Code may be enforced by any one, all or a combination of the remedies authorized and prescribed by this section.

(g) Continuing violation. Except as otherwise specifically provided, each day's continuing violation of this Code shall be a separate and distinct offense.

Chapter 2

Administration.

Division I. In General.

§ 2-1. Form of Government.

Pursuant to G.S. 160A-101 and 160A-102, the Charter of the Town of Cedar Point, as set forth in Chapter 1005 of the 1987 Session Laws of North Carolina, as amended, is hereby further amended to provide that the Town shall operate under the council-manager form of government in accordance with Part 2 of Article 7 of G.S. Chapter 160A and any charter provisions not in conflict herewith. (November 20, 2020)

Division II. Mayor and Town Council.

§ 2-2. Powers and duties of mayor.

§ 2-2.1. The mayor shall preside at all council meetings, but shall have the right to vote only when there are equal numbers of votes in the affirmative and in the negative.

§ 2-2.2. The mayor shall perform official duties for the town as authorized by the town council.

§ 2-3. Selection and duties of the mayor pro tempore.

At the organizational meeting, the council shall elect from among its members a mayor pro tempore to serve at the pleasure of the council. A councilman serving as mayor pro tempore shall be entitled to vote on all matters and shall be considered a councilman for all purposes, including the determination of whether a quorum is present. During the absence of the mayor, the council may confer upon the mayor pro tempore any of the powers and duties of the mayor. If the mayor should become physically or mentally incapable of performing the duties of his office, the council may, by unanimous vote, declare that he is incapacitated and confer any of his powers and duties on the mayor pro tempore.

Upon the mayor's declaration that he is no longer incapacitated, and with the concurrence of a majority of the council, the mayor shall resume the exercise of his powers and duties. In the event both the mayor and the mayor pro tempore are absent from a meeting, the council may elect from its members a temporary chairman to preside in such absence.

§ 2-4. Powers and Duties of Council.

§ 2-4.1. **Commissioners of Departments.** Upon nomination by the mayor, confirmed by the Board of Commissioners, commissioners shall be appointed to monitor the following departments or divisions of the Town. The appointments continue at the pleasure of a majority of the Board, but absent removal or reassignment, shall continue for two years. Appointments will be made as soon as practical following election of the mayor. The departments or divisions of the town subject to commissioner monitoring are:

- a. Finance;
- b. Planning and zoning;
- c. Public safety;
- d. Parks and recreation;
- e. Transportation and public works.

The Board of Commissioners may by resolution or budget ordinance establish other departments or divisions. Commissioners may be appointed to more than one department or division. The mayor may also be appointed to one or more departments.

§ 2-4.2. **Powers.** The commissioners shall have all power and authority vested upon them by the Town Charter, the Town Code, and the General Statutes of North Carolina. Additionally they shall have the following power and authority:

1. To monitor the department to which they are appointed.
2. To serve as liaison between the department and the Town Board.
3. To consult with the Department Head.
4. To monitor expenditures within the department.
5. To approve expenditures within the department within the limit of the budget for the fiscal year.
6. To assist in preparation of the departmental budget for the following fiscal year.
7. To recommend amendments to the departmental budget when necessary.

§ 2-5. Meetings.

§ 2-5.1. Time and Place of Regular Meetings; Meetings Open to Public.

All meetings of the Commissioners, whether regular or special, shall be open to the public, except when the Commissioners sit in closed session. Regular meetings of the Town Commissioners shall be held on the fourth Tuesday of the month at 6:30 p.m. at the Town Hall; however, the Board may reschedule or cancel a regular meeting to accommodate holidays or unforeseen circumstances.

§ 2-5.2. Special and Emergency Meetings.

Special and emergency meetings will be called and held in accordance with the Open Meetings Law.

§ 2-6. Code of Ethics.

§ 2-6.1. Purpose.

The purpose of this Code of Ethics is to establish guidelines for an ethical standard of conduct for the Board of Commissioners and to help to determine what conduct is appropriate in particular cases. It should not be considered a substitute for the law or for a board member's best judgment.

§ 2-6.2. Official Actions.

Board members should obey all laws applicable to their official actions as members of the Board. Board members should be guided by the spirit as well as the letter of the law in whatever they do.

At the same time, board members should feel free to assert policy positions and opinions without fear of reprisal from fellow board members or citizens. To declare that a board member is behaving unethically because of disagreeing with that board member on a question of policy (and not because of the board member's behavior) is unfair, irresponsible, and it unethical.

§ 2-6.3. Integrity and Independence.

Board members should act with integrity and independence from improper influence as they exercise the duties of their offices. Characteristics and behaviors consistent with this standard include the following:

- (a) Adhering firmly to a code of sound values;
- (b) Behaving consistently and with respect toward everyone with whom they interact;
- (c) Exhibiting trustworthiness;
- (d) Living as if they are on duty as elected officials regardless of where they are or what they are doing;

(e) Using their best independent judgment to pursue the common good as they see it, presenting their opinion to all in a reasonable, forthright, consistent manner;

(f) Remaining incorruptible, self-governing, and unaffected by improper influence while at the same time being able to consider the opinions and ideas of others;

(g) Disclosing contacts and information about issues that they receive outside of public meetings and refraining from seeking or receiving information about quasi-judicial matters outside of the quasi-judicial proceedings themselves;

(h) Treating other board members and the public with respect and honoring the opinions of others even while the board members disagree with those opinions;

(i) Not reaching conclusions on issues until all sides have been heard;

(j) Showing respect for their offices and not behaving in ways that reflect on those offices;

(k) Recognizing that they are a part of a larger group and acting accordingly;

(l) Recognizing that individual board members are not generally allowed to act on behalf of the board but may only do so if the board specifically authorizes it, and that the board must take official action as a body;

(m) Avoiding conflicts of interest.

§ 2-6.4. Avoiding impropriety.

(a) Board members should avoid impropriety in the exercise of their official duties. Their official actions should be above reproach. Although opinions may vary about what behavior is inappropriate, this board will consider impropriety in terms of whether a reasonable person who is aware of all of the

relevant facts and circumstances surrounding the board member's action would conclude that the action was inappropriate.

(b) If a board member believes that his or her actions, while legal and ethical, may be misunderstood, the member should seek the advice of the board's attorney and should consider publicly disclosing the facts of the situation and the steps taken to resolve it.

§ 2-6.5. Performance of Duties.

(a) Board members should faithfully perform the duties of their offices. They should act as especially responsible citizens whom others can trust and respect. They should set a good example for others in the community, keeping in mind that trust and respect must continually be earned.

(b) Board members should faithfully attend and prepare for meetings. They should carefully analyze all credible information properly submitted to them, mindful of the need not to engage in communications outside the meeting in quasi-judicial matters. They should demand full accountability from those over whom the board has authority.

(c) Board members should be willing to bear their fair share of the board's workload. To the extent appropriate, they should be willing to put the board's interests ahead of their own.

§ 2-6.6. Openness and Transparency.

(a) Board members should conduct the affairs of the board in an open and public manner. They should comply with all applicable laws governing open meetings and public records, recognizing that doing so is an important way to be worthy of the public's trust. They should also remember that local government records belong to the public and not to board members or their employees.

(b) In order to ensure strict compliance with the laws concerning openness, board members should make clear that an environment of transparency and candor is to be maintained at all times in the government unit. They should prohibit unjustified delay in fulfilling public record requests. They should take deliberate steps to make certain that any closed sessions held by the board are lawfully conducted and that such sessions do not stray from the purpose for which they are called.

§ 2-6.7. Violation.

A violation of this Section may subject a Mayor/Commissioner to a censure Resolution by the Town of Cedar Point Commissioners; however, no such censure resolution shall be adopted until the person alleged to have committed the violation has been given notice of the alleged violation and provided with the opportunity to appear before the Board and be heard regarding the allegation.

Division III. Officers and Employees.

§ 2-8. Town Manager. *(November 20, 2020)*

The Town Manager shall be responsible to the Board of Commissioners for administering all municipal affairs placed in his charge by them, and shall have the following powers and duties: *(November 2, 2020)*

(a) He shall direct and supervise the administration of all departments, offices, and agencies of the town, subject to the general direction and control of the Board of Commissioners, except as otherwise as provided by law.

(b) He shall attend all meetings of the Board of Commissioners, except when excused by the Board, and recommend any measures that he deems expedient.

(c) He shall see that all laws of the State, the Town Charter, and the ordinances, resolutions, and regulations of the Board of Commissioners are faithfully executed within the Town.

(d) He shall, in conjunction with the Town's Finance Commissioner, prepare and submit the annual budget and capital program to the Board of Commissioners.

(e) He shall, in conjunction with the Town's Finance Commissioner, annually submit to the Board of Commissioners and make available to the public a complete report on the finances and administrative activities of the town as of the end of the fiscal year.

(f) He shall make any other reports that the Board of Commissioners may require concerning the operations of city departments, offices, and agencies subject to his direction and control.

(g) He shall perform any other duties, including Land Use Administration that may be required or authorized by the Board of Commissioners.

(h) He shall obey all laws of the state and nation and shall conduct himself both on and off the job in a civil and respectable manner.

§ 2-9. Town Clerk.

The Town Clerk shall report to and be subject to the general direction of the Town Manager and shall have the following duties:

(a) Perform all duties of Town Clerk according to the state and local laws.

(b) Take minutes of all official Board of Commissioners, Planning Board, Board of Adjustment, and Appearance Commission meetings and maintain all such minutes in accordance with NC General Statutes

- (c) Maintain all official Town records.
- (d) Respond to citizen requests for records consistent with NC General Statutes and public records law.
- (e) Maintain all Town personnel and payroll records.
- (f) Assists employees with fringe benefits questions and payroll questions.
- (g) Process all payroll and benefits of Town employees, including payments to other agencies, e.g. remittance of federal withholding taxes, payments to retirement system, etc.
- (h) Responsible for daily accounting functions including recognition of revenues and expenditures, works closely with the Town Manger in planning and fiscal management of the Town's finances, may be responsible for supervising employees that these functions are delegated to. *(November 20, 2020)*
- (i) Responsible for completion and submission of a wide variety of financial and administrative reports.
- (j) Acts on behalf of the Town Manager during his/her absence. *(November 20, 2020)*
- (k) Maintains a liaison with state, county and other municipality staff.
- (l) Performs all other related duties as directed by the Town Manager and/or Board of Commissioners. *(November 20, 2020)*

§ 2-10. Other Employees.

The town board will, from time to time, define other positions, and engage other employees of the town. All employees will serve at the pleasure of the board.

§ 2-11. Town Attorney.

§ 2-11.1. Regular Counsel.

The Board of Commissioners may appoint a Town Attorney who shall be an attorney-at-law licensed to engage in the practice of law in North Carolina. The Town Attorney shall serve at the pleasure of the Board and shall receive such compensation as the Board shall determine.

§ 2-11.2. Duties of Town Attorney.

It shall be the duty of the Town Attorney to prosecute and defend suits for and against the Town; to advise the Mayor, Board of Commissioners, and other Town officials with respect to the affairs of the Town; to draw all legal documents relating to the affairs of the Town; to draw proposed ordinances when requested to do so; to inspect and pass upon all agreements, contracts, franchises and other instruments with which the Town may be concerned; to attend all meetings of the Board; and to perform such other duties as may be required of him by virtue of his position as Town Attorney.

§ 2-11.3. Special Counsel.

The Board may from time to time engage special counsel to represent the town on special matters when the regular Town Attorney has a conflict-of-interest or in cases where special counsel is needed as a result of special expertise. In the event a situation arises where special counsel is needed before a regular Town Board meeting, the Town Manager, with the approval of the Mayor, may engage special counsel on behalf of the Town. *(November 20, 2020)*

§ 2-12 to 2-20. Reserved.

Division IV. Boards and Commissions.

§ 2-21. Planning Board.

§ 2-21.1. Established; jurisdiction.

There is hereby established a board known as the Cedar Point Planning Board, hereinafter referred to as the planning board, whose jurisdiction shall include the area within the corporate limits of the town and areas of extraterritorial jurisdiction as the law provides.

§ 2-21.2. Composition; terms; vacancies; attendance of members; extraterritorial member.

(a) The planning board shall be composed of seven regular members, two alternates, one member representing the town's extraterritorial area of jurisdiction and an alternate for the ETJ. The seven regular members and the two alternates must be residents of the town and shall be appointed by the board of commissioners. The ETJ member and the ETJ alternate must reside in the ETJ.

(b) There is no term limit on the service of a planning board member. The regular planning board members shall be appointed for a term of three years. Faithful attendance at the meetings of the planning board is considered a prerequisite for the maintenance of membership on the planning board.

(c) If a regular planning board member is absent from a meeting, an alternate planning board member shall serve during that meeting and shall have full voting rights during that meeting. Regular planning board members are encouraged to notify the town clerk if they will not be able to attend a meeting and the town clerk will notify an alternate member of the need to attend the meeting. The town clerk will attempt to rotate the substitution of alternate members for the regular members who are not able to attend meetings. If the town clerk has

not designated an alternate member to substitute for an absent regular member, either alternate member who attends the meeting shall serve as a voting member during that meeting and if both alternates attend, and only one regular member is absent, the chairman of the planning board will appoint one of the alternates to serve during the meeting. The alternate planning board members are encouraged to attend as many planning board meetings as they are able, but only if serving as a substitute for an absent regular will he or she have voting rights.

(d) The alternate planning board members shall be appointed for a term of three years. There is no term limit on the service of alternate planning board members.

(e) In addition to the seven regular members and two alternates of the planning board, an additional one member, and an alternate for such member, shall be appointed to represent the extraterritorial area of jurisdiction of the town. Such additional member, and his or her alternate, shall be a resident of the county and shall be appointed by the county board of commissioners. If the county board of commissioners fails to make such appointment within ninety (90) days after receiving a resolution from the town board of commissioners requesting that the appointment be made, the town board of commissioners shall make the appointment. The appointment shall be for a term of three years. The extraterritorial member shall function and vote only with regard to matters within the extraterritorial area. The alternate for such ETJ member shall serve in such member's absence.

§ 2-21.3. Chairman; officer; rules; records; meetings; quorum.

The planning board shall elect a chairman and create and fill such offices as it may determine. The term of the chairman and other officers shall be one year, with eligibility for reelection. The chairman shall not have voting privileges except in matters of a tied vote to break the tie. The planning board shall adopt rules for transaction of its resolutions, discussions, findings, and recommendations, which record shall be a public record. The planning board shall hold at least one meeting monthly as long as there are items for consideration, and all of its meetings shall be open to the public. There shall be a quorum of four members for the purpose of taking any official action required by this division.

§ 2-21.4. Powers and duties.

It shall be the duty of the planning board to prepare plans and to coordinate the plans of the town and those of others so as to bring about a coordinated and harmonious development of the area. The planning board is hereby designated as the planning agency for the preparation of a zoning plan for the town under the authority of § 160A-387 of the General Statutes. In addition, the planning board is empowered to:

- (1) Acquire and maintain in current form such basic information and materials as are necessary to an understanding of past trends, present conditions and forces at work to cause changes in these conditions;
- (2) Prepare and, from time to time, amend and revise a comprehensive and coordinated plan for the physical development of the area. The comprehensive plan shall be the planning board's recommendations to the board of commissioners for the development of the town, including, among other things, the general location, character and extent of streets, bridges, parkways, playgrounds,

parks and other public ways, grounds and open spaces; the general location and extent of public utilities and terminals, whether publicly or privately owned or operated, for water, light, sanitation, transportation, communication, power and other purposes; the removal, relocation, widening, narrowing, vacating, abandonment, change of use or extension of any of the foregoing ways, buildings, grounds, open spaces, property, utilities or terminals; and the most desirable pattern of land use within the area;

- (3) Make recommendations to the board of commissioners as to the establishment of principles and policies for guiding action in the development of the area;
- (4) Prepare and recommend ordinances promoting orderly development of the area along the lines indicated in the comprehensive plan including a zoning ordinance and subdivision regulations. The planning board may initiate, from time to time, proposals for amendment of zoning ordinance and of subdivision regulations based upon its studies and comprehensive plan. In addition, it shall review and make recommendations to the board of commissioners concerning all proposed amendments to the zoning ordinance and subdivision regulations;
- (5) Determine whether specific proposed developments referred to it by governmental or private agencies in the area conform to the principles and requirements of the comprehensive plan for the area as well as the town zoning and subdivision ordinance and to make recommendations concerning them;
- (6) Keep the board of commissioners and the general public informed and advised as to these matters;

(7) Perform any other duties which may lawfully be assigned to it; and

(8) The planning board may perform any of the actions authorized for municipal planning boards by § 160A-370 of the General Statutes.

§ 2-21.5. Commercial, Industrial, and Institutional Site Plan Review.

In accordance with the adopted zoning ordinance the planning board may review development proposals concerning the use of property for commercial, industrial, or institutional uses and make a formal recommendation as to the approval of such proposals to the board of commissioners.

§ 2-22 to § 2-24 - Reserved.

§ 2-25. Board of Adjustment.

§ 2-25. 1. Establishment and Jurisdiction.

There is hereby established a board to be known as the Cedar Point Board of Adjustment whose jurisdiction shall include the area within the territorial jurisdiction of the Town of Cedar Point as now or hereafter established.

§ 2-25. 2. Composition and Term of Office.

The Board of Adjustment shall consist of five (5) regular members, two (2) alternate members, and one (1) extraterritorial jurisdiction ("ETJ") member. The five (5) regular members shall be the four (4) Town Commissioners and the Mayor. *(Amended April 30, 2019)*

The one (1) ETJ member shall reside in the town's extraterritorial jurisdiction and shall be appointed by the Board of County Commissioners, or by the Town Council if the County Commissioners fail to make the appointment within the time permitted by law. The ETJ member will have a three year term. The ETJ member will vote only on matters arising in the ETJ.

§ 2-25. 3. Rules of Procedure.

The Board of Adjustment will adopt rules and regulations in accordance with GS § 160A-388 for its own operation necessary to carry out the provisions of the Zoning Ordinance. The Town Manager and Town Clerk will maintain copies of the adopted rules for public information. The Board of Adjustment shall elect a Chairman, Vice-Chairman from its membership who shall serve for a one (1) year term or until his or her successor are elected. The Vice-Chairman in the absence of the Chairman may administer oaths and subpoena witnesses. The Board shall also appoint a Secretary whom may be a Town Official, a contract appointee, or member of the Zoning Board of Adjustment. The Board shall hold at least one meeting monthly if there are items for consideration, and all of its meetings shall be open to the public. There shall be a quorum of four (4) members for purpose of taking any official action. *(Amended July 24, 2018) (November 20, 2020)*

Division V. Appearance Commission Reserved.

§ 2-26 to § 2-29 - Reserved.

CHAPTER 3

Animal Control

§ 3-1 Declaring the Town of Cedar Point a Bird Sanctuary.

In accordance with the provisions of § 160A-188 of the General Statutes of North Carolina, the entire area within the corporate limits of the Town of Cedar Point is declared to be a bird sanctuary.

§ 3-2 Animals in General.

§ 3-2.1 No animals, except as expressly allowed herein, shall be permitted by their owners to roam within the Town. However, dogs which are household pets may, when accompanied by a responsible individual controlling said dog on a leash not to exceed sixteen (16') feet in length, be allowed on public rights-of-way. Nothing contained herein shall prohibit traditional household pets from being retained on the owner's private property, subject to limitations and restrictions contained within the Cedar Point Municipal Code. Cats maintained as household pets may be allowed to roam within the Town, without leash, unless such cat regularly engages in conduct reasonably considered to be a nuisance to citizens within the Town.

§ 3-2.2 No horses or other equines, beef and dairy cattle, hogs, sheep, goats, and other livestock shall at any time be allowed within the Town of Cedar Point except on a bona fide farming operation or a Special Use Permit, issued by the appropriate Board, is secured and all conditions are satisfied. It is not prohibited to transport such animals through Town as long as they remain within the confines of the transportation vehicle (trailer) (*Amended May 21, 2019*).

§ 3-2.3 Except on bona fide farming operations, no resident shall be authorized to cage, house, or retain more than three dogs or cats on their premises, except that litters of puppies or kittens shall be allowed for a period not to exceed twelve (12) weeks. This subparagraph does not restrict the retention of those animals on private property in Cedar Point at time of adoption of this Code.

§ 3-2.4 No person owning, harboring, keeping or in charge of any dog shall cause or allow the dog to defecate or otherwise commit any nuisance on any street, sidewalk, park, municipal right-of-way or other publicly owned area, or upon any private property without permission of the owner of the property, without the excrement immediately being removed by the person owning, harboring or keeping the dog responsible for the excrement, and then depositing such excrement in an appropriate waste container.

§ 3-2.5 In the event of an observed violation of any of the above restrictions by a Town employee or an observed and witnessed violation by a resident of the Town, the animal owner will be issued a letter from the Town indicating that in the event of a second violation, the owner will be subject to enforcement and penalty under the Town Code.

§ 3-2.6 Every dog and cat shall be required at all times to wear a collar with the owner's name and address stamped on or otherwise firmly attached to the collar. Every owner or keeper of a dog or cat over four months of age shall have the dog or cat inoculated for rabies and display the rabies tag on the animal's collar as required by state law. It shall be unlawful for any person to fail or refuse to provide proof of rabies vaccination for any animal that they own or control when a request is made therefor by a law enforcement officer, the county animal control warden or his designee, or the health director or his designee.

§ 3-4 Hunting and trapping.

§ 3-4.1 Trapping and Hunting Prohibited

Except as permitted in Section 3-4.2 there shall be no trapping or hunting of animals within the Town. This section specifically, but not by way of limitation, forbids hunting with firearms, bow and arrow, crossbow or any other method and also forbids trapping by use of steel traps or any device that can injure an animal.

§ 3-4.2 Exceptions.

The following activities are not subject to the provisions of Section 3-4.1 and are specifically permitted to occur within the Town:

(a) The trapping of animals for purposes of relocation by persons authorized by the Town Manager or by state law. (*November 20, 2020*)

(b) Controlled hunts of deer authorized by the Town Board of Commissioners. The Board of Commissioners will decide on an annual basis whether to apply for a depredation permit from the North Carolina Wildlife Resources Commission and to conduct a controlled hunt of deer by bow and arrow. When hunting is permitted, the Board of Commissioners shall specify the duration of the controlled hunt along with the number of permits to be issued allowing hunters to hunt.

The following regulations shall apply to any and all controlled hunts and the persons authorized to hunt:

(i) Hunters shall only hunt deer with a manual bow and arrow or crossbow; the use of firearms or any other method of hunting is expressly prohibited;

(ii) Hunters shall follow all federal, state, and local laws, including all rules and

regulations promulgated by the North Carolina Wildlife Resources Commission;

(iii) Unless qualifying for an exemption from licensing, hunters must have in their possession while hunting a valid North Carolina hunting license issued the North Carolina Wildlife Resources Commission;

(iv) Hunting shall be permitted on private property if the hunter obtains written permission from the property owner allowing the hunting;

(v) Hunters shall make every reasonable effort to track wounded deer for the purpose of completing the harvest and recovering the carcass; and

(vi) Hunters shall report to the Town Manager the number of deer killed. (*November 20, 2020*)

(c) Killing of deer to protect crops in commercial farming operations according to the procedures established by the North Carolina Wildlife Resources Commission for wildlife depredation.

§ 3-4.3 Severability.

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses, and phrases of this article are severable, and if any phrase, clause, sentence, paragraph, or section of this article is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this article, since the same would have been enacted by the board of commissioners without the incorporation in this article of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

§ 3-5 Restricted animals.

§ 3-5.1 No animals, livestock or poultry of any kind, other than traditional household pets and chickens for domestic egg production only, shall be kept or maintained within the Town, except on bona fide farming operations, or a Special Use Permit, issued by the appropriate Board, is secured and all conditions are satisfied. *(Amended May 21, 2019)*

§ 3-5.2 No wild bird, wild animal or reptile may be caged or housed within the corporate limits of the Town, except for small reptiles and amphibians kept in a terrarium. This subsection does not prohibit the natural movement of such animals within Town. Bona fide farming operations are not exempted from this subsection.

§ 3-5.3 Mammals prohibited from being kept in the town by this section, but present within the town on September 24, 2013, may remain in town until the death of the animal. The owner of such animal shall have the burden of proving that such mammal was in the city limits on such date.

Chapter 4

Building and Fire Codes and Regulations

Division I. Building Codes

§ 4.1 Building Code. The edition of the North Carolina State Building Code: Building Code, in effect at the time a building permit is required for construction activity as adopted by the North Carolina State Building Code Council shall apply within the town and the ETJ. The structure shall thereafter be kept in compliance with said code; except that subsequent modifications to a structure requiring a building permit shall be subject to the edition of the code then in effect.

§ 4.2 Residential Code. The edition of the North Carolina State Building Code: Residential Code, in effect at the time a building permit is required for construction activity as adopted by the North Carolina State Building Code Council shall apply within the town and the ETJ. The structure shall thereafter be kept in compliance with said code; except that subsequent modifications to a structure requiring a building permit shall be subject to the edition of the code then in effect.

§ 4.3 Mechanical Code. The edition of the North Carolina State Building Code: Mechanical Code, in effect at the time a building permit is required for construction activity as adopted by the North Carolina State Building Code Council shall apply within the town and the ETJ. The structure shall thereafter be kept in compliance with said code; except that subsequent modifications to a structure requiring a building permit shall be subject to the edition of the code then in effect.

§ 4.4 Fuel Gas Code. The edition of the North Carolina State Building Code: Fuel Gas Code, in effect at the time a building permit is required for construction activity as adopted by the North Carolina State Building Code Council

shall apply within the town and the ETJ. The structure shall thereafter be kept in compliance with said code; except that subsequent modifications to a structure requiring a building permit shall be subject to the edition of the code then in effect.

§ 4.5 Plumbing Code. The edition of the North Carolina State Building Code: Plumbing Code, in effect at the time a building permit is required for construction activity as adopted by the North Carolina State Building Code Council shall apply within the town and the ETJ. The structure shall thereafter be kept in compliance with said code; except that subsequent modifications to a structure requiring a building permit shall be subject to the edition of the code then in effect.

§ 4.6 Energy Code. The edition of the North Carolina State Building Code: Energy Code, in effect at the time a building permit is required for construction activity as adopted by the North Carolina State Building Code Council shall apply within the town and the ETJ. The structure shall thereafter be kept in compliance with said code; except that subsequent modifications to a structure requiring a building permit shall be subject to the edition of the code then in effect.

§ 4.7 Enforcement. Unless and until the town establishes a building inspection department, all codes in this Division shall be enforced by Carteret County under contract with the town. When employees of the county are enforcing the codes under this Division they shall have the same authority, privileges and immunities as if they were employees of the town.

Division II. Fire Code; Fire Regulations

§ 4.8 Fire Code. The edition of the North Carolina State Building Code: Fire Prevention Code, in effect at the time a building permit is required for construction activity as adopted by the North Carolina State Building Code Council shall apply within the town and the ETJ.

§ 4.8.1 Fire Safety Inspection. Unless and until the town hires its own fire safety inspectors, the North Carolina State Building Code: Fire Prevention Code and all codes or regulations relating to fire safety for various categories of occupancies within the jurisdiction of the town, shall be enforced by qualified employees of any unit of local government with which the town contracts for such service, including the Western Carteret Interlocal Agency. When employees of units of local government are enforcing the codes and regulations under this Division they shall have the same authority, privileges and immunities as if they were employees of the town.

§ 4.9 Regulations pertaining to fire scenes; general regulations.

§ 4.9.1 No person shall stand or be in any street or alley near a fire in progress, in such a way as to interfere with the duties of the fire and emergency personnel on scene controlling the fire.

§ 4.9.2 No person shall interfere with a firefighter in the discharge of his or her duty, or hinder him or her in the performance of his or her duty.

§ 4.9.3 No person other than members of a fire department handle or meddle in any manner with any fire engine or any other apparatus, except with the express consent of a fireman in control thereof.

§ 4.9.4 It shall be unlawful for any person to drive over or in any way damage or mutilate any fire hose while in use at a fire scene or otherwise.

§ 4.9.5 Firemen or law enforcement officers may lay off, by tape or otherwise, such portions of the street and lots adjacent thereto as may be deemed necessary for fighting any fire, and it shall be unlawful for any person, except owners of burning or endangered property, to cross over or enter such enclosure without the permission of the law enforcement officers or firefighters on the fire scene.

§ 4.9.6 It shall be unlawful for any person to obstruct with building material or otherwise any hydrant or fireplug in such manner as to interfere with or obstruct the easy approach to or the convenient use of the same by the fire department

§ 4.9.7 No person shall intentionally give or cause to be given any false alarm of a fire or other emergency.

§ 4.10 County Fire Marshal. The Carteret County Fire Marshal shall have full authority to investigate the cause of fires within the town to the same extent as he has jurisdiction in the county.

CHAPTER 5

Licenses and Business Regulations

Division I. Sexually Oriented Businesses.

§ 5-1. Purpose.

It is the purpose of this Division to regulate sexually oriented businesses in order to protect public health, safety, and welfare of citizens and visitors and to establish reasonable and uniform regulations to prevent the deleterious location of sexually oriented businesses within the town. The provisions of this Division have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly it is not the intent nor effect of this Division to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this Division to condone or legitimize the distribution of obscene material.

§ 5-2. Rationale.

The following regulations were designed to address two (2) very distinct issues.

(a) The town wants to minimize the potential secondary impacts of sexually oriented businesses on those identified sensitive uses, i.e. residential districts, schools, churches, day care centers, etc.

(b) The town wants to provide an area where people can exercise their First Amendment right to expression without infringing on other peoples' rights. In allowing these uses, the Town of Cedar Point has had to balance its constitutional obligations with the need to guarantee our local economy and quality of life is not impeded.

§ 5-3. Definitions.

Adult Arcade. Any place to which the public is invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one (1) time, and where the images so displayed are distinguished or characterized by the depicting or describing of specified sexual activities or specified anatomical areas.

Adult bookstore. A bookstore:

(a) which receives a majority of its gross income during any calendar month from the sale of publications (including books, magazines, and other periodicals) which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this Chapter; or

(b) having a preponderance of its publications, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this Chapter.

Adult cabaret. A nightclub, bar, restaurant, or similar commercial establishment that for at least ten (10) percent of its business hours in any day features:

(a) Persons who appear in a state of nudity or semi-nudity; or

(b) Live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

(c) Films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or

(d) Persons who engage in lewd, lascivious or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

Adult escort. A person who, for consideration, agrees or offers to act as a companion, guide, or date for another person for the purpose of participating in, engaging in, providing, or facilitation of specified sexual activities.

Adult escort agency. A person or business that furnishes, offers to furnish, or advertises to furnish adult escorts as one (1) of its business purposes for a fee, tip, or other consideration.

Adult live entertainment. Any performance of or involving the actual presence of real people which exhibits specified sexual activities or specified anatomical areas, as identified in this Chapter.

Adult live entertainment business. Any establishment or business wherein adult live entertainment is shown for observation by patrons.

Adult media center. Adult media center includes, but is not limited to, an adult bookstore, and an adult video store, and means any place:

(a) Which receives more than fifty (50) percent of its gross income during any calendar month from the sale, rental, or both of books, periodicals, magazines, video-tapes, CD-ROM, computer software, movies, and other products

offered in photographic, print, electronic, magnetic, or digital or other imaging media which are distinguished or characterized by their emphasis on matter depicting, describing, or presenting specified anatomical areas as defined in NCGS 14-202.10(10), or specified sexual activities as defined in NCGS 14-202.10(11), or sexually oriented devices as defined in NCGS 14-202.10(9) or any combination thereof; or

(b) Having more than twenty-five (25) percent of its merchandise inventory consisting of books, periodicals, magazines, video-tapes, CD-ROM, computer software, movies, and other products offered in which are distinguished or characterized by their emphasis on matter depicting, describing, or presenting specified anatomical areas as defined in NCGS 14-202.10(10), or specified sexual activities as defined in NCGS 14-202.10(11), or sexually oriented devices as defined in NCGS 13-202.10(9), or any combination thereof.

A commercial establishment may have other business purposes on the same building site that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as adult media center. Such other business being categorized as an adult media center so long as one (1) of its business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas.

Adult merchandise. Any product dealing in or with explicitly sexual material as characterized by matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

Adult mini motion picture theater. An enclosed building with viewing booths designed to hold patrons which is used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas as defined in this Chapter, for observation by patrons therein.

Adult motel. A hotel, motel or similar commercial establishment that:

(a) Offers accommodation to the public for any form of consideration and provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas; and has a sign visible from the public rights-of-way that advertises the availability of this adult type of photographic reproductions; or

(b) Offers a sleeping room for rent for a period of time that is less than twelve (12) hours; or

(c) Allows a tenant or occupant of a sleeping room to sub rent the room for a period of time that is less than twelve (12) hours.

Adult motion picture theater. An enclosed building or premises used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas, as defined in this Chapter, for observation by patrons therein. "Adult motion picture theater" does not include any adult mini motion picture theater as defined in this Chapter.

Adult theater. A theater, concert hall, auditorium, or similar commercial establishment

that for at least ten (10) percent of its business hours in any day, features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

Adult video store. A commercial establishment that, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video tapes or cassettes, video reproductions, CD-ROMs, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or any combination thereof.

Bottomless. A state of nudity or semi-nudity where a person exposes to view a human bare buttock, anus, male genitals, or female genitals.

Employee of a sexually oriented business. A person who performs any service on the premises of a sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise and whether or not said person is paid a salary, wage, or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises.

Lap. The area between a person's knees and his or her waist.

Nude model studio. Any place where a person who appears in a state of nudity or display specified anatomical areas is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration.

There is excepted from this definition any studio which is part of a school for artists who are regularly enrolled in a course of instruction in the arts, and in which the use of nude models involves less than ten (10) percent of the course hours.

Nudity or a state of nudity. The appearance of a human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

Non-adult use businesses. Any business or establishment not defined as a sexually oriented business in this Chapter or in § 15-259 of the zoning ordinance. Non-adult use businesses shall not display or merchandise sexually oriented implements and paraphernalia, including but not limited to: dildo, auto sucks, sexually oriented vibrators, edible underwear, benwa balls, inflatable orifices, anatomical balloons with orifices, simulated and battery operated vaginas, and similar sexually oriented devices.

Patron. Any person who is physically present on the premises of a sexually oriented business and who is not an owner, employee, agent, subcontractor, or independent contractor of said business, or nay entertainer or performer at said business.

Semi-nude. A state of dress in which clothing covers no more than the human bare buttock, anus, male genitals, female genitals, or female breast without a fully opaque complete covering of the breast below a point immediately above the top of the areola, or human male genitals in a discernibly turgid state even if completely and opaquely covered.

Sexually oriented business. A business which offers its customers or patrons any device, activity or demonstration depicting specified

sexual activities, or which is intended to appeal to sexual interests, titillation or arousal of the customer or patron. A sexually oriented business shall include an adult establishment as defined in NCGS 14-202.10(2) and, in addition, without limitation: adult arcade, adult bookstore, adult video store, adult cabaret, adult media center, adult live entertainment business, adult motel, adult motion picture theater, adult min motion picture theater, adult theater, adult escort agency, and nude model studio.

Sexually oriented business activities. Those activities usually provided for, promoted, or offered by a sexually oriented business as defined herein, whether or not as the principal business purpose or as a sideline or accessory business purpose and whether or not in connection with or on the same premises with a business which is not a sexually oriented business.

Sexually oriented devices. Any artificial or simulated specified anatomical area or other device or paraphernalia that is designed principally for specified sexual activities but shall not mean any contraceptive device.

Specified anatomical areas means:

- (a) Less than completely and opaquely covered: (i) human genitals, pubic region; (ii) buttock, or (iii) female breast below a point immediately above the top of the areola; or
- (b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means:

- (a) Human genitals in a state of sexual stimulation or arousal;
- (b) Acts of human masturbation, sexual intercourse or sodomy; or

(c) Fondling or other erotic touching of human genitals, public regions, buttocks or female breasts.

Touch or touching. Any form of intentional, physical, bodily contact, whether exposed or clothed parts of either body are involved.

§ 5-4. Licensing of sexually oriented businesses.

The following license provisions and regulations are ordained for the purpose of operating a sexually oriented business:

(a) No person shall operate a sexually oriented business unless such person has received a sexually oriented business license as proved by this Chapter.

(b) Every application for a sexually oriented business license prescribed herein shall be upon a form approved by the town and shall be filed with the town clerk. An application shall be made under oath and shall contain the following information:

(1) If the applicant is a person, the name and residence address of such person including any aliases or other names by which the applicant is known or which the applicant has used at any time; the residence and address for the past two (2) years, the business and home telephone numbers, occupation, date and place of birth, social security number, driver's license number, and a recent photograph of the applicant. If the applicant is a partnership, corporation, association, or other entity the same information is a requirement for all corporate officers, directors, and any individuals having a ten (10) percent or greater interest in the corporation, partnership, association, or other entity.

(2) The address of the premises where the proposed sexually oriented business is proposed to be located;

(3) A complete statement of all convictions of any person whose name is required to be given in subsection (b)(1) for any sexually related crime; prostitution or any violation of any law relative to prostitution; or of any crime involving sexual misconduct as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any of the offenses enumerated in Article 26, 26A and 27 of Chapter 14 of the North Carolina General Statutes, or the same offenses as codified in the laws of the United States, this or of any other state;

(4) A complete statement of any denial and/or revocation of any license, including the grounds and reasons theretofore, to operate a sexually oriented business by any governmental unit listed by name and address of any person whose name is required to be given in subsection (b) (1) for the five (5) years preceding the date of the filing of this application;

(5) A complete statement of any conviction for violation of any statute, law, ordinance or regulation concerning the operating of a sexually oriented business by any governmental unit listed by name and address of any person whose name is required to be given in subsection (b) (1) for the five (5) years preceding the date of the filing of this application.

(6) A description of any other business proposed to be operated on the same premises or on adjoining premises owned or controlled by the applicant or any other person or entity listed in (b)(1) above.

(7) All applicants, and any individual listed in (b) (1) above, shall submit to fingerprinting by a Carteret County Sheriff. The fingerprint cards shall be submitted to the SBI for processing. Returned fingerprint cards on any criminal histories shall be kept on file in the Town of Cedar Point.

(8) A site plan showing the floor layout, customer area, and location of the structure to be used as a sexually oriented business on the property in accordance with all the requirements outlined in this Division.

(9) A current certificate and straight-line drawing prepared by a registered land surveyor depicting the property lines and the structure containing the proposed sexually oriented business and its distance from existing land uses to include, but not be limited to: residential zoning districts, other sexually oriented business, churches or any structure or building being used as a church or religious facility, libraries, schools, state licensed child day care centers, public playgrounds, public swimming pools, public parks, and any outdoor recreational use.

(10) A statement signed under oath that the applicant has personal knowledge of the information contained in the application, that the information contained therein is true and correct, the applicant consents to the investigation of his/her background by the Town of Cedar Point to verify the information provided, and that the applicant has read and understand the provisions of this Division regulating sexually oriented businesses.

(c) In addition to the above requirements, every licensed sexually oriented business shall maintain a current list of all employees employed by the licensee showing: the legal name, current stage name, current address, current phone number, date of birth, and current driver's license number. In addition the licensee of a sexually oriented business shall maintain a record updated at least every six (6) month of the height, weight, hair and eye color, scars, tattoos and a passport quality photograph of each employee.

(d) The records required by this Chapter shall be kept available and open for inspection by the police department at any time, or the state

or county health departments, or by the director of planning and development or his authorized representative at any time the sexually oriented business is open for business.

§ 5-5. Issuance of License.

(a) The town clerk shall transmit a copy of the completed application, containing all the required information outlined in this Chapter to the Carteret County Sheriff's department for an investigative report, the planning department to determine compliance with all zoning, building regulations, and ordinances, and the Western Carteret fire departments to determine compliance with any law relating to the fire protection.

(b) The sheriff, planning, and fire departments shall, within a reasonable time not to exceed forty-five (45) working days, report the results of their examinations to the town clerk.

(c) If the sheriff, planning and fire departments do not respond within forty-five (45) working days to the town clerk then the application and conditional use site plan is to be deemed to meet the approval of the police, planning, including the planning board, and the fire departments.

(d) A completed application accompanied by all required information outlined in this Chapter and all reports and recommendations as outlined in this Chapter, shall be submitted to the town clerk and placed on the agenda of the next regularly scheduled board of commissioners meeting.

(e) Upon the receipt of said application for a sexually oriented business license, the board of commissioners shall review the conditional use application, the site plan, the sexually oriented business license application and approve the issuance of the license if the board determines that:

(1) The application contains no misstatement of fact;

(2) The applicant, or any person or entity having any legal or beneficial ownership interest in the application, has not been convicted of a sexually related crime, prostitution or a violation of any law relative to prostitution, crime involving sexual misconduct as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of the offenses enumerated in Articles 26, 26A and 27 of Chapter 14 of the North Carolina General Statutes, or the same offenses as codified in the laws of the United States, this or any other state.

(3) The applicant conforms to all requirements of applicable zoning, building, and fire prevention codes.

(4) The applicant or any person, corporation, partnership, association or other entity having a legal or beneficial ownership interest in the applicant has not, for the five-year period preceding the application, had a previously issued license for engaging in any sexually oriented business that has been suspended or revoked anywhere.

(f) If the board of commissioners has not approved or denied the sexually oriented business application within thirty (30) days from receiving the completed application and conditional use application, the license shall be deemed granted.

§ 5-6. Annual Business License.

(a) A license granted pursuant to this Chapter shall be subject to annual review upon the written application of the applicant and a finding by the town that the applicant has not been convicted of any specified criminal activity as defined within this Division or committed any act during the existence of the previous license, which would be grounds to deny the

initial license application. The renewal of the license shall be subject to the payment of the fee as set forth in this Division.

(b) The license required under this Division is annual and shall be valid for a period of twelve (12) months. Such license fees shall be due and payable in the same manner as prescribed for other licenses issued by the town.

(c) Application for renewal of a business license shall be made at least thirty (30) days before the expiration date to the town tax collector. When made less than thirty (30) days before the expiration date, the expiration of the license will not be affected.

(d) Any violation of the licensing provisions in this Division will result in the denial of the renewal application.

(e) All licenses shall be issued for a business conducted at a specific location and all fees shall be nonrefundable and shall be nontransferable to any person, partnership, corporation, association, or other entity.

§ 5-7. Fees.

(a) Every application for a sexually oriented businesses license, whether for a new license or for renewal of an existing license, shall be accompanied by a nonrefundable application and investigation fee as enumerated in the consolidated fee schedule.

(b) Sexually oriented businesses shall be required to pay all applicable business and license fees.

§ 5-8. Inspection of a sexually oriented business.

An applicant or licensee shall permit representatives of the Sheriff's Department, Western Carteret Fire Department, the Town of Cedar Point Planning and Development department, or the Carteret County Health Department to inspect the premises of any sexually oriented business for the purpose of insuring compliance with the law, at any time it is occupied or open for business. Failure or refusal by any person to permit a lawful inspection of the premises during regular business hours shall be punishable in accordance with the Town Code and in addition may result in the revocation of the license.

§ 5-9. Denial or revocation of license.

(a) Before the board of commissioners revokes a license issued pursuant to this Division, or if the board of commissioners determines reasonable grounds exist to deny an application for a license pursuant to this Division, the board of commissioners shall cause a written notice to be sent by certified mail to the licensee or applicant affected, at the address stated in the license or application. The notice shall advise the affected party of a right to appear before the board of commissioners, with or without legal counsel, at a stated time and place for the purpose of presenting any evidence relevant to such revocation or denial and for the purpose of hearing all evidence submitted and examining or cross-examining any person providing such evidence.

(b) A license issued pursuant to this Chapter shall be revoked by action of the board of commissioners if the board of commissioners determines that:

(1) The licensee has violated any provision of this Division;

(2) The licensee, or the legal or beneficial owner of any interest in the licensee is convicted of any felony; prostitution or any violation of any law relative to prostitution; crime involving sexual misconduct; as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any of the offenses enumerated in Articles 26, 26A and 27 of Chapter 14 of the North Carolina General Statutes, or the same offenses as codified in the laws of any other state.

(3) Any employee or contract personnel of the licensee is convicted of any felony; prostitution or any violation of any law relative to prostitution; crime involving sexual misconduct; or any offense against public morality and decency as codified in the laws of the United States, this or any other state, including, but not limited to convictions of violations of any of the offenses enumerated in Articles 26, 26A and 27 of Chapter 14 of the North Carolina General Statutes, or the same offenses as codified in the laws of any other state, which arises out of, or in the course of the business of the licensee.

(4) The licensee has knowingly, willingly, or intentionally operated a sexually oriented business during a period of time when the licensee's license was suspended for any reason.

(5) The licensee has knowingly, willingly, or intentionally allowed prostitution on the premises.

(6) The licensee has knowingly, willingly, or intentionally violated state ABC laws.

(b) A license issued pursuant to this Division is immediately terminated and of no force and effect if the licensee moves or ceases operating a sexually oriented business at the location stated in the application for license pursuant to this Chapter. For the purposes of this Division, indicators of the cessation shall include but not be limited to:

- (1) no town water; or
- (2) no electrical service has been legally provided and consumed for the use in question for a period of three (3) consecutive months.
- (c) When the town revokes a license, the revocation shall continue for one (1) year and the licensee shall not be issued a sexually oriented business license for one (1) year from the date the revocation became effective. If, subsequent to revocation, the town finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety (90) days have elapsed since the date the revocation became effective.
- (d) After denial of an application, or denial of a renewal of an application or revocation of any license, and all administrative measures have been exhausted, the applicant or licensee may seek immediate judicial review of such board action in any court of competent jurisdiction. The administrative action shall be promptly reviewed by the court.

§ 5-10. Location of a sexually oriented business.

- (a) As specified in the Town of Cedar Point Zoning Ordinance, a sexually oriented business may not:
 - (1) Locate within five hundred (500) feet in any direction from a residential zoning district or residential use of property.
 - (2) Located within five hundred (500) feet in any direction from a building in which a sexually oriented business is located.
 - (3) Locate within one thousand (1,000) feet in any direction from a building in which a church is located.
 - (4) Located within one thousand (1,000) feet in any direction from a building in which a

library, school or a state licensed child day care center is located.

(5) Located within one thousand (1,000) feet in any direction from any lot or parcel on which a public playground, public swimming pool, public ocean or estuarine access, or public park is located.

(b) Measurement shall be made in a straight line, without regard to the intervening structures or objects, from the nearest portion of the buildings or structures used as the part of the premises where a sexually oriented business is conducted to the nearest portion of a building or structure of a use listed above.

§ 5-11. Posting of license.

Every person, corporation, partnership, or association licensed under this section shall display such license in a prominent place.

§ 5-12. Hours of Operation.

(a) No sexually oriented business shall be open for business before 8:00 a.m. or after 2:00 a.m. daily, local time.

(b) No business, nor any owner, agent or employee, licensed under this Chapter shall admit customers or prospective customers, or remain open for business, or allow, permit or condone any customer or patron upon the premises of a sexually oriented business before 8:00 a.m. or after 2:00 a.m. daily, local time.

§ 5-13. Patronage of a sexually oriented business by minors and employment of minors.

(a) No business, nor any owner, agent, or employee, licensed under this Division shall allow, permit or condone the patronage of any person under the age of eighteen (18) years upon the licensed premises.

A violation of this subsection shall be grounds for revocation of any license issued to such violator pursuant to this Division.

(b) No business, corporation, partnership, association, or other entity licensed pursuant to this Division shall employ any person under the age of eighteen (18) years. A violation of this section shall be grounds for revocation of any license issued to such violation pursuant to this Chapter.

§ 5-14. Regulations pertaining to sexually oriented businesses.

(a) A person who operated or causes to be operated a sexually oriented business which exhibits on the premises a film, video cassette, live entertainment, sells adult oriented merchandise including books, magazines, novelty items, computer software, videos, or shows other vide reproductions which depicts specified sexual activities shall comply with the following requirements:

(1) Upon application for a sexually oriented license, the application shall be accompanied by a diagram of the premises showing a plant thereof specifying the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station may not exceed thirty-two (32) square feet of floor area. The diagram shall also designate the place in which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall be required; however, each diagram should be oriented to the north or to some designated street and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal inches.

(2) No alteration in the configuration of a manager's station may be made without prior

approval of the planning and development director or his designee.

(3) It is the duty of the owners and operator of the premises to ensure that at least one (1) employee is on duty and situated in each manager's station at all times when a patron is inside the premises to ensure that no illegal activity is taking place within the establishment.

(4) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager's station of the entire area of the premises to which any *patron* is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction or surveillance equipment, books, or any items offered for sale. If the premises has two (2) or more manager's stations, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations, excluding restrooms. The view required in this section shall be by direct line of sight from the manager's station.

(5) It shall be the duty of the owner(s) and operator(s), and it shall be the duty of any agent(s) and employee(s) present in the premises, to ensure that the view area specified in this subsection (4) remains unobstructed by any doors, walls, merchandise, display racks, or other materials at all times and to ensure that no patron is permitted access to any area of the premises that has been designated as off limits to patrons.

(6) Sexually oriented businesses shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access.

It shall be the duty of owners and operator, and it shall be the duty of any agents and employees present in the premises, to ensure that this illumination is maintained at all times when any patron is present within the premises.

(7) Adult motion picture theaters, adult mini motion picture theaters, and adult theaters shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access. It shall be the duty of the owners and operator, and it shall be the duty of any agents and employees present in the premises, to ensure that this illumination is maintained at all times when any patron is present within the premises.

(8) Adult motion picture theaters and adult theaters shall be in an enclosed building with no less than one hundred (100) fixed seats. No private viewing rooms or semi-private booths are allowed.

(9) An adult mini motion picture theater shall not allow more than one (1) person in a viewing room at a time.

(10) No owner or operator shall allow openings of any kind to exist between viewing rooms within an adult mini motion picture theater.

(11) The owner or operator of an adult mini motion picture theater shall, during each business day, regularly inspect the walls between the viewing rooms to determine if any openings or holes exist.

(12) The owner or operator of an adult mini motion picture theater shall cause all floor coverings in viewing rooms to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(13) The owner or operator of an adult mini motion picture theater shall cause all walls and ceiling surfaces in viewing rooms to be

constructed of, or permanently covered by, nonporous, easily cleanable material.

(b) A person having a duty under subsections (1) through thirteen (13) of this section is in violation of this Division if he/she knowingly, willfully, or intentionally fails to fulfill that duty.

§ 5-15. Prohibited conduct on premises of sexually oriented business.

(a) It shall be a violation of this Division for any person in a sexually oriented business to appear in a state of full nudity or to depict specified sexual activities.

(b) No owner, operator, manager, employee, entertainer or contract personnel, nor any customer of patron, shall appear bottomless or in a state of full nudity while on the premises of a sexually oriented business.

(c) No owner, operator, manager, employee, entertainer or contract personnel, nor any customer or patron, shall perform any specified sexual activities as defined in this Division, wear or use any device or covering exposed to view which stimulates or simulates any specified anatomical area, use artificial device or inanimate objects to perform or depict any of the specified sexual activities, as defined in this Division, or participate in any act of prostitution while on the premises of a sexually oriented business.

(d) No owner, operator, manager, employee, entertainer or contract personnel, nor any customer or patron, shall knowingly touch, fondle or caress any specified anatomical area of another person, knowingly permit another person to touch, fondle or caress any specified anatomical area of his or hers, whether such specified anatomical areas are clothed, unclothed, covered or exposed, or sit on or in or otherwise occupy the lap of anyone while on the premises of a sexually oriented business.

(e) No owner, operator, manager, employee, entertainer or contract personnel shall knowingly or intentionally appear in a semi-nude condition unless the person, which semi-nude, is at least ten (10) feet from any patron or customer and on a stage that is at least two (2) feet from the floor.

(f) No employee shall solicit any pay or gratuity from any patron or customer while said employee is in a state of semi-nudity while on the premises of a sexually oriented business.

(g) No private dance, viewing, projection or meeting areas shall be allowed within a sexually oriented business.

§ 5-16. Regulations pertaining to the exterior portions of sexually oriented businesses.

It shall be unlawful for an owner or operator of a sexually oriented business to allow the merchandise or activities of the establishment to be visible from any point outside the establishment.

§ 5-17. Severability.

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses, and phrases of this Division are severable, and if any phrase, clause, sentence paragraph, or section of this Division is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Division, since the same would have been enacted by the board of commissioners without the incorporation in this Division of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

§ 5-18 to § 5-19 – Reserved.

Division II. § 5-20 to § 5-33 Reserved.

§ 5-34 to § 5-40. – Reserved.

Division III. Yard/Garage Sales and Occasional Sales.

§ 5-41. Definitions.

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

“Directional sign” shall mean a sign offering direction to the sale premises and located on other than on the sale premises.

“House sign” shall mean any sign designating the location of the sale and located on sale premises.

“Occasional sales” shall mean sales of goods, on premises not zoned for such sales, and commonly known as “yard sales” or “garage sales.” “Occasional sales event” shall mean the act of engaging in an occasional sale. An occasional sales event may extend for no more than three consecutive calendar days but is deemed concluded when the event ends regardless of whether or not it extends for the full three days.

“Person” shall mean any individual, business entity, association or non-profit corporation.

§ 5-42. Occasional Sales Permitted.

Occasional sales are permitted subject to the provisions of this Division.

§ 5-43. Time Limitations.

Two occasional sales events are allowed on a person's property in any consecutive twelve-month period as long as the events are separated by a minimum of three weeks. All occasional sales shall begin no earlier than 8:00 AM and shall cease or terminate no later than 8:00 PM

§ 5-44. Limitations on display of goods.

A person may place on display any goods, wares, or merchandise under the provisions of this Division up to his front property line. Articles for sale may be displayed inside the garage, inside the back yard, and on a driveway so as not to hinder emergency equipment access to any structures on the property.

§ 5-45. Directional Signs.

Directional signs for any one occasional sale shall be allowed subject to the following:

- (a) Each sign shall not exceed six (6) square feet in gross surface area per sign face.
- (b) Each sign shall denote the address of the sale.
- (c) Signs shall be elevated to a height no greater than three (3) feet from the ground to the top of the sign face.
- (d) A sign shall not be placed to obstruct any line of vision for the driver of any vehicle.
- (e) Not more than one sign advertising the occasional sale may be posted on a lot, parcel of real estate, or at a particular intersection.

§ 5-46. House sign limitation.

House signs may be displayed on the premises where the sale is to be held subject to the following:

(a) Signs shall not exceed six (6) square feet in gross surface area nor be elevated more than three (3) feet from the ground.

(b) Signs shall not obstruct any line of vision for the driver of any vehicle.

§ 5-47. Sign removal.

All signs shall be removed no later than two (2) hours after the conclusion of the sale.

§ 5-48. Fees and permit for yard/garage and occasional sales.

There will be no fee for yard/garage and occasional sales.

§ 5-49. Exemption for lemonade stands operated by children.

Exempted from this Division are *occasional sales* conducted solely by children, such as lemonade stands, when such operations do not exceed two consecutive days a week.

§ 5-50 Time Limitations.

- a. It shall be unlawful for any person to conduct or allow any occasional sale for a continuous period in excess of three (3) days, or to conduct more than two (2) such separate sales on the same premises within any twelve (12)-month period between January 1 and December 31.
- b. It shall be unlawful for any person to conduct occasional sales closer than three (3) weeks between each occasional sale even if in different years. (Ord. #1994-7, 12/13/94)

§ 5-51 Space Limitations.

- a. A person may place on display any goods, under the provisions of this division up to the front property line of a dwelling.
- b. Displays may not extend beyond the property line of such dwelling.
- c. Articles for sale may be displayed inside the garage, inside the backyard, and on a driveway, but only so as not to hinder emergency equipment access to any structures on the property.
- d. Nothing in this Division shall be construed as preempting additional restrictions found in this Code or imposed by the State of North Carolina.

§ 5-52 Fees for Permit for Occasional Sales.

There shall be no fee for a permit for occasional sales.

§ 5-53 through § 5-59 Reserved

Division IV. Reserved

Division V. Reserved

Division VI. Itinerant Merchants, Mobile Food Vendors and Solicitors.

§ 5-60 Definitions. As used in this Division:

Door to Door Sale. A sale of consumer goods and services in which the seller or the seller's representative personally solicits the sale from a buyer at the buyer's home or residence, except those in response to or following an invitation by the buyer.

Food Truck. A kitchen on wheels that is fully enclosed with floors, walls and ceilings from which a Mobile Food Vendor conducts sales.

Itinerant Merchant. A person, other than a merchant with an established retail store in the corporate limits of Cedar Point, who transports an inventory of goods to a building, vacant lot, Specialty market or other location in the corporate limits of Cedar Point and who, at that location, displays the goods for sale and sells the goods at retail or offers the goods for sale at retail.

Mobile Food Unit A food establishment designed to be readily moved and vend food including food trucks and push carts.

Mobile Food Vendor. A person or persons that prepare or serve food and/or beverages from a Mobile Food Unit.

Peddler. A person who travels from place to place with an inventory of goods, who sells the goods or offers the goods for sale to the general public, and who delivers the identical goods.

Person. - An individual, a firm, an association, a partnership, a limited liability company, a corporation, a unit of government, or another group acting as a unit.

Push Cart. A mobile piece of equipment designed to be moved by one person from which a Mobile Food Vendor conducts sales.

Solicitor. Any person who travels from place to place taking or offering to take orders for the sale of goods, including food and beverages, for future delivery or for personal services to be performed in the future, whether or not samples are displayed or money is collected in advance, and any person who uses or occupies any building or premises for the sole purpose of taking or offering to take orders for the sale of goods for future delivery or for personal services to be performed in the future,

whether or not samples are displayed or money is collected in advance.

Specialty Market. A location, other than a permanent retail store, where space is rented to others for the purpose of selling goods at retail or offering goods for sale at retail. Specialty markets shall be the same as an Open Air Market or Flea Market as defined in the Cedar Point Zoning Ordinance.

Specialty Market Operator. A person, other than the State or a unit of local government, who rents space, at a location other than a permanent retail store, to others for the purpose of selling goods or offering goods for.

§ 5-61 Licensing and Licensing Fee.

a. Unless otherwise exempted from regulation under this Division, no person shall conduct any business within the Town as a Mobile Food Vendor, Itinerant Merchant, Peddler, Specialty Market Operator or Solicitor without first having applied for and received a license from the Town.

b. All licenses will be valid for a period of twenty-four (24) hours or twelve (12) months as determined by the type of application submitted.

c. A license fee shall be charged for all applications under this Division and no license shall be issued until the fee has been paid in full. The amount of the fee can periodically change by action of the Cedar Point Board of Commissioners and shall be posted on the Cedar Point Fee Schedule.

§ 5-62 Applications for Licenses for Solicitors and Peddlers.

a. Every Solicitor or Peddler desiring to do business in the corporate limits of Cedar Point shall file with the Town Manager, or his/her designee, an application setting for the following information:

1. Name, address, and telephone number of the applicant;

2. Name and address of applicant's employer, organization or company with which the applicant is associated in connection with the activity to be conducted;

3. The goods, wares, merchandise to be sold or offered for sale, or the type of services to be rendered;

4. The period during which the business will be conducted;

5. The sex, height, weight, and other distinguishing characteristics of the applicant, including a copy of the document(s) used by the applicant to verify personal identification;

6. A description of each motor vehicle, to be used in the business, showing the make, model, body style, color and license number;

7. A record of all crimes which the applicant has been convicted or has pleaded no contest to in the ten (10) years preceding the date of the application;

8. Duration of the license, twenty-four (24) hours or twelve (12) months. If the application is for a twenty-four (24) hour period, identify the date for which the license is being sought.

Along with each application the applicant shall file with the Town Manager, or his/her designee the following documentation(s):

1. A Certificate of Registration from the North Carolina Department of Revenue, if applicable;

2. Evidence of Insurance, if required;

3. All other required Local, State, and Federal documentation related to the operation being proposed.

b. Upon receipt of the application and required documentation, the Town Manager, or his/her designee, shall make or cause to be made an investigation as is reasonably necessary to verify the information on the application and to ensure compliance with the provisions of this Division. The Town Manager, or his/her designee, shall approve such application and shall issue a permit to such applicant unless the applicant:

1. Has not submitted a complete application along with the applicable fee as set forth herein;

2. Has not obtained a Certificate of Registration from the North Carolina Department of Revenue;

3. Has not obtained all other necessary permits and licenses to operate the business being proposed;

4. Has been convicted or, or has pleaded no contest to a felony charge within the ten (10) years preceding the submittal of the application;

5. Has been within the previous five (5) years, convicted of, or pleaded no contest to, a misdemeanor charges under N.C.G.S. §66-257 or a misdemeanor charge, involving theft, fraud, forging, uttering or other crimes of like nature or any crime involving moral turpitude; or

6. Has previously had a license issued hereunder revoked by the Town within the last five (5) years.

If the Town Manager or his/her designee denies the issuance of a license, anyone denied such license shall have the right to file an appeal to the Town Board of Commissioners. Any such

appeal must be filed within ten (10) days of the denial.

c. A license issued under the terms of this Division by the Town Manager, or his/her designee, for a twenty-four (24) hour period shall be valid for the specific twenty-four (24) hour time period shown on the license. A license issued under the terms of this Division by the Town Manager, or his/her designee, for a twelve (12) month a period shall be valid for twelve (12) months from the date of the issuance if said license. Person(s) must reapply with the required documentation(s) in § 5-72, to renew said license after its expiration.

§ 5-63. Applications for Licenses for Mobile Food Vendors, Itinerant Merchants and Specialty Market Operators.

a. Every Mobile Food Vendor, Itinerant Merchant and Specialty Market Operator desiring to do business in the corporate limits of Cedar Point shall file with the Town Manager, or his/her designee, an application setting for the following information:

1. Name, address, and telephone number of the applicant;

2. Name and address of applicant's employer, organization or company with which the applicant is associated in connection with the activity to be conducted;

3. The goods, wares, merchandise, food items to be sold or offered for sale, or the type of services to be rendered;

4. The period during which the business will be conducted;

5. The sex, height, weight, and other distinguishing characteristics of the applicant, including a copy of the documents(s) used by the applicant to verify personal identification;

6. A description of each motor vehicle, Push Cart or Food Truck to be used in the business, showing the make, model, body style, color and license number;

7. Duration of the license, twenty-four (24) hours or twelve (12) months. If the application is for a twenty-four (24) hour period, identify the date for which the license is being sought.

Along with each application the applicant shall file with the Town Manager, or his/her designee the following documentation(s):

1. A Certificate of Registration from the North Carolina Department of Revenue, if applicable;

2. Carteret County Food Service Permit and copies of any Health Inspection Ratings, if applicable;

3. NC Department of Agriculture Food Permit, if applicable;

4. NC Alcohol and Beverage Commission Permit, if applicable;

5. Evidence of Insurance if required;

6. All other required Local, State, and Federal documentation related to the operation being proposed.

b. Upon receipt of the application and required documentation, the Town Manager, or his/her designee, shall make or cause to be made an investigation as is reasonably necessary to verify the information on the application and to ensure compliance with the provisions of this Division. The Town Manager, or his/her designee, shall approve such application and shall issue a permit to such applicant unless the applicant:

1. Has not submitted a complete application along with the applicable fee as set forth herein;

2. Has not obtained a Certificate of Registration from the North Carolina Department of Revenue;

3. Has not obtained all other necessary permits and licenses to operate the business being proposed;

4. Has previously had a license issued hereunder revoked by the Town within the last five (5) years.

If the Town Manager or his/her designee denies the issuance of a license, anyone denied such license shall have the right to file an appeal to the Town Board of Commissioners. Any such appeal must be filed within ten (10) days of the denial.

c. A license issued under the terms of this Division by the Town Manager, or his/her designee, for a twenty-four (24) hour period shall be valid for the specific twenty-four (24) hour time period shown on the license.

A license issued under the terms of this Division by the Town Manager, or his/her designee, for a twelve (12) month a period shall be valid for twelve (12) months from the date of the issuance if said license. Person(s) must reapply with the required documentation(s) in § 5-73, to renew said license after its expiration.

d. Notwithstanding the foregoing requirements, any Specialty Market Operator who has received a special use permit from the Town to operate a Specialty Market is exempt from the licensing provisions of this Division.

§ 5-64 Mobile Food Units.

a. General Requirements.

1. Mobile Food Units must be properly permitted by Carteret County and said permit shall be on display at all times of operation.

2. Mobile Food Units shall comply with all regulations related to the same set forth in 15A NCAC 18A.2600 et seq., or any replacement thereof.

3. A Mobile Food Vendor shall carry general liability insurance issued by a company licensed to do business in the State of North Carolina. Such insurance shall afford minimum limits of \$100,000.00 per person for bodily injury, \$300,000 per occurrence bodily injury and \$25,000.00 per occurrence of property damage.

4. Mobile Food Units shall only operate in commercially zoned areas of Town.

b. Push Carts.

Push Carts shall only serve hot dogs or foods which have been prepared, pre-portioned, and individually prewrapped at a restaurant or commissary or which serve foods and/or beverages exempt from health department regulation. Any prepared, pre-portioned, and individually prewrapped food shall be labeled with the name of the restaurant or commissary at which it was prepared, the name of the food item, and the time and date of expiration. Any food remaining at the end of the day shall be discarded and not re-used.

§ 5-65. Specialty Markets.

It shall be the responsibility of a Specialty Market Operator to ensure that all person(s) operating at their location to be properly

licensed by the Town. If, upon investigation of the Town, it is found unlicensed person(s) are operating at a Specialty Market, the Specialty Market Operator shall be in violation of this Division.

§ 5-66. Door-to-Door Sales.

It shall be unlawful for any Peddler or Solicitor or other seller of merchandise to go in, or on, private residences or premises thereof, in the corporate limits of Cedar Point for purposes of trying to sell or advertise a product or service without having first been permitted by the Town.

Having a permit issued under this Division does not grant a permit holder the right to enter on private property. This Division and any permit issued under this Division shall in no way abridge or compromise a property owner's common law rights to control his property.

Door-to-Door Sales shall not be conducted between the times of 8:00 PM through 8:00 AM.

§ 5-67. Revocation.

Licenses issued under this Division may be revoked by the Town Manager, after notice and hearing for any of the following causes:

1. Any fraud, misrepresentation, or false statement contained in the application;
2. Any fraud, misrepresentation, or false statement made in connection with the selling of goods, wares, merchandise of services;
3. Any violation of this Division and/or other Town ordinance;
4. Conducting any activity in an unlawful manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, morals or general welfare of the public;

5. The permit holder representing in any way that any permit granted under this Division is an endorsement of such solicitation; or

6. For Peddlers and Solicitors, where evidence is presented and it is shown that the permit holder during the period of the validity of the permit has been arrested for a felony or a misdemeanor charges under N.C.G.S. §66- 257 or a misdemeanor charge, involving theft, fraud, forgery, moral turpitude, criminal trespass.

Before a License is revoked, the Town Manager shall give the license holder five (5) days' notice in writing that a hearing is to be had and notice of the grounds for revocation. At the hearing conducted by the Town Manager, the license holder shall be permitted to present evidence as to why the license should not be revoked. If grounds for revoking the License are found to exist, the License shall be revoked. The decision of the Town Manager may be appealed to the Cedar Point Board of Commissioners by filing a notice of appeal within ten (10) days of the revocation.

§ 5-68. Exemptions.

The following individuals and activities are exempted from the provisions of this Division:

1. Yard sales, garage sales and occasional sales that fall within the scope of Division III of this Chapter;

2. Lemonade stands set up on private property by children which sell lemonade on an occasional basis.

3. Persons peddling or soliciting on behalf of primary and secondary schools, churches, civic organizations, and nonprofit organizations which are tax exempt or should be tax exempt under the provisions of the Internal Revenue Code. Such persons are encouraged to register with the Town Manager or his/her

designee to avoid concern that illegal peddling or solicitation is taking place in the Town.

4. Person promoting candidates or ideas rather than goods or services;

5. Persons making delivery of items to a home, business structure or location when an order has been placed for such item.

6. Persons who offer goods or items for sale and delivery to commercial establishments located in commercially zoned districts.

7. Events sponsored by the Town of Cedar Point.

§ 5-69. Enforcement.

Enforcement of regulations under this Division shall be under Chapter 1 of this Code.

CHAPTER 6

Emergency Management.

Division I. State of Emergency.

§ 6-1. State of Emergency; Restrictions Authorized.

§ 6-1.1 A State of Emergency shall be deemed to exist whenever during times of public crisis, disaster, rioting, catastrophe, or similar public emergency, for any reason, public safety authorities are unable to maintain public order or afford adequate protection for lives, safety or property, or whenever the occurrence of any such condition is imminent.

§ 6-1.2 In the event of an existing or threatened emergency endangering the lives, safety, health and welfare of the people within the Town of Cedar Point or any part thereof, or threatening damages to or destruction of property, the Mayor is hereby authorized and empowered under N.C.G.S. § 14-288.12 and N.C.G.S. § 166A-8 to issue a proclamation declaring the existence of such a State of Emergency, and, in order to more effectively protect the lives and property of people within the Town of Cedar Point, to place in effect any or all of the restrictions hereinafter authorized.

§ 6-1.3 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 described within the town and to specific hours of the day or night; and to exempt from all or any part of such restrictions, while acting in the line of an within the scope of their respective duties, law enforcement officers, firemen and other public employees, rescue squad members, 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 televisions broadcasting corporations operated for profit; and such other 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 people within the county.

§ 6-2. Proclamation Imposing Prohibitions and Restrictions.

§ 6-2.1 The Mayor of the Town of Cedar Point by proclamation may impose the prohibitions and restrictions specified in this Chapter or the statutes of the State of North Carolina. The Mayor may impose as many of those specified prohibitions and restrictions as he finds are 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 his findings in the proclamation.

§ 6-2.2 The proclamation shall be in writing. The Mayor shall take reasonable steps to give notice of the terms of the proclamation to those affected by it and shall post a copy of it at the Town Hall. The Mayor shall send reports of the substance of the proclamation to the mass communications media which serves the affected area. The Mayor shall retain a copy of the text of the proclamation and furnish, upon request, certified copies of it.

§ 6-3. Evacuation.

The Mayor may encourage, but not direct or compel, the evacuation of all or part of the population of the Town of Cedar Point, to prescribe routes, modes of transportation, and destination in connection with evacuation; control ingress and egress of a disaster area, the movement of persons within the area. Details of the evacuation may be set forth or amended in a subsequent proclamation which shall be well publicized.

§ 6-4. Curfew.

§ 6-4.1 The proclamation may impose a curfew prohibiting in certain areas and during certain periods the appearance in public of anyone who is not a member of an exempted class. The proclamation shall specify the geographical area or areas and the period during each 24 hour day to which the curfew applies. The Mayor may exempt from some or all of the curfew restrictions classes of people whose exemption the Mayor finds necessary for the preservation of the public health, safety, and welfare. The proclamation shall state the exempted classes and the restrictions from which each is exempted.

§ 6-4.2 Unless otherwise specified in the proclamation, the curfew shall apply during the specified period each day until the Mayor by proclamation removes the curfew.

§ 6-5. Restrictions on Possession, Consumption, or Transfer of Alcoholic Beverages.

The proclamation may prohibit the possession or consumption of any alcoholic beverage; including beer, wine, and spirituous liquor other than on one's own premises, and may prohibit the transfer, transportation, sale or purchases of any alcoholic beverage within the area of the Town of Cedar Point described in the proclamation. The prohibition, if imposed, may apply to transfers of alcoholic beverages by employees of Alcoholic Beverage Control stores as well as by anyone else within the geographical area described.

§ 6-6. Restriction on Possession, Transportation, and Transfer of Dangerous Weapons and Substances.

§ 6-6.1 The proclamation may prohibit the transportation or possession off one's own premises, or the sale or purchase of any dangerous weapon or substance. Exempted

from any proclamation issued by the Mayor under this section are law enforcement officers, members of the National Guard, and all members of the United States military while performing their official duties. The Mayor may exempt from some or all of these restrictions additional classes of people whose possession, transfer, or transportation of certain dangerous weapons or substances are necessary to the preservation of the public's health, safety, or welfare. The proclamation shall state the exempted class and the restrictions from which each is exempted.

§ 6-6.2 "Dangerous weapon or substance" means:

a. Any deadly weapon, ammunition, explosive, incendiary device, radioactive material or device as defined in G.S. 14-288.8(c), gasoline, or other instrument or substance designed for a use that carries a threat or serious bodily injury or destruction of property.

b. Any other instrument or substance that is capable of being used to inflict serious bodily injury or destruction of property, when the circumstances indicate that there is some probability that such instrument or substance will be so used.

c. Any part or ingredient in any instrument or substance included above when the circumstances indicate a probability that such a part or ingredient will be so used.

§ 6-6.3 If imposed, the restrictions shall apply throughout the jurisdiction of the Town of Cedar Point or such part thereof as designated in the proclamation.

§ 6-7. Restrictions on Access to Areas.

§ 6-7.1 The proclamation may prohibit obtaining access or attempting to obtain access to any area, designated in the manner described in this Chapter, in violation of any order, clearly posted notice, or barricade indicating that access is denied or restricted.

§ 6-7.2 Area to which access is denied or restricted shall be designated by the Sheriff and his subordinates or other law enforcement officer when directed in the proclamation to do so by the Mayor. When acting under this authority, the Sheriff and his subordinates may restrict or deny access to any area, street, highway or location within the Town of Cedar Point if that restriction or denial of access or use is reasonably necessary to promote efforts being made to overcome the emergency or to prevent further aggravation of the emergency.

§ 6-8. Various Restrictions. The Proclamation may prohibit or restrict:

- a. Movements of people in public places;
- b. The operation of offices, business establishments, and other places to or from which people may travel or at which they may congregate; and
- c. Other activities or conditions the control of which may be reasonably necessary to maintain order and protect lives or property during the state of emergency, within the area designated in the proclamation.

§ 6-9. Removal of Prohibitions and Restrictions.

The Mayor shall, by proclamation, terminate the entire declaration of emergency or remove any of the prohibitions and restrictions when the emergency no longer requires them, or when directed to do so by the Commissioners of the Town of Cedar Point.

§ 6-10. Superseding and Amendatory Proclamations.

The Mayor in his/her discretion may invoke the restrictions authorized by this Chapter in separate proclamations, and may amend any proclamation by means of a superseding proclamation in accordance with the procedures set forth in this Chapter.

§ 6-11. Termination of Proclamation.

Any proclamation issued under this Division shall expire five days after its last imposition unless sooner terminated in writing under the same procedures set forth in § 6-2 for proclamations.

§ 6-12. In Case of Absence or Disability of the Mayor.

In case of the absence or disability of the Mayor, the Mayor pro tempore of the Town of Cedar Point, or such other person as may be designated by the Commissioners, shall have, and exercise, all of the powers herein given the Mayor.

§ 6-13. Penalty for Violation.

Any person violating any prohibition or restriction imposed by a proclamation authorized by this Chapter shall be subject to the maximum penalty provided by law.

§ 6-14. Territorial Applicability.

This Chapter shall apply within the corporate limits of the Town of Cedar Point, or within any area over which the municipality has jurisdiction to enact general police power ordinances as fully as to the same extent as elsewhere in the town.

§ 6-15. Validity.

If any section, subsection, sentence, clause, or phrase of this Chapter is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Chapter.

Chapter 7

RESERVED.

Chapter 8.

RESERVED.

Chapter 9.

Offenses and Miscellaneous Provisions.

Nuisances.

Division I. Nuisances, in general.

§ 9-1. Certain conditions declared nuisances.

The existence of any condition that is dangerous or prejudicial to the public health or safety within the corporate limits and within the Town's Extraterritorial Jurisdiction is hereby deemed to be a public nuisance as provided in N.C.G.S. §160A-193 and is prohibited. Examples of public nuisances include, but are not limited to, the following.

(a) Growth of weeds and grass.

The uncontrolled growth of noxious weeds or grass causing or threatening to cause a hazard detrimental to the public health or safety. This shall not include any identified vegetative buffer, woodland area, or any property identified as being a Bona Fide Farm.

(b) Accumulations of animal or vegetable matter.

Any accumulation of animal or vegetable matter on a residential or commercial lot that is offensive by virtue of odors or vapors or by the inhabitation therein of rats, mice, snakes or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(c) Accumulations of rubbish, etc.

Any accumulation of rubbish, trash or junk causing or threatening to cause a fire hazard, causing or threatening to cause the accumulation of stagnant water or causing or threatening to cause the inhabitation therein of rats, mice, snakes or vermin of any kind

which is or may be dangerous or prejudicial to the public health.

(d) Conditions violating health department rules.

Any condition detrimental to the public health which violates the rules and regulations of the county health department.

(e) Burned or partially burned buildings and structures.

Any building or other structure which has been burned, partially burned or otherwise partially destroyed and which is unsightly or hazardous to the safety of any person, is a continuing fire hazard or which is structurally unsound to the extent that the town building official can reasonably determine that there is a likelihood of personal or property injury to any person or property entering the premises.

(f) Storm or erosion damaged structures and resulting debris.

The existence of any of the following conditions associated with storm or erosion damaged structures or their resultant debris shall constitute a public nuisance.

(1) Damaged structure in danger of collapsing.

(2) Damaged structure or debris from damaged structures where it can reasonably be determined that there is likelihood of personal or property injury.

(3) Any structure, regardless of condition, or any debris from damaged structure which is located in whole or in part in a public trust area or public land.

§ 9-2. Investigation of complaints.

The Town Manager, or his designee, upon notice from any person of the existence of any of the conditions described above, shall cause to be made, by the appropriate county health department official or town official, such investigation as may be necessary to determine whether such conditions exist as to constitute a public nuisance as declared in this Chapter.

§ 9-3. Notice and order to abate on finding of existence.

(a) Upon a determination that conditions constituting a public nuisance exist, the town planner shall notify, in writing, the owner, occupant or person in possession of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within thirty (30) days from the receipt of such written notice. Receipt shall be deemed to occur on the third day after the date of the postmark if the notice is deposited in a United States Post Office.

(b) Abatement of a public nuisance shall consist of taking whatever appropriate steps are reasonably necessary to remove the condition or conditions which result in the declaration of a public nuisance. Without limitation the town planner, in ordering the abatement of a public nuisance, may require the removal of debris, rubbish, accumulations of animal or vegetable matter, growth of weeds and grass, burned or partially burned buildings, the isolation of the condition to be abated so that access cannot be gained by persons or property which may be injured by the nuisance or such other steps which are reasonably necessary to abate the nuisance.

(c) A property owner served with a notice of violation under this section shall be allowed to appeal said decision to the Cedar Point Board of Adjustment at their next regularly scheduled meeting. If the next regularly scheduled

meeting falls outside of the thirty (30) day abatement period no action shall be taken by the Town to remedy the public nuisance until after the Board of Adjustment has reviewed the issue. If the Board of Adjustment upholds the Town Manager's decision, the property owner shall be allotted an additional fourteen (14) days to abate the identified public nuisance.

§ 9-4. Abatement by Town-Generally.

(a) If any person, having been ordered to abate a public nuisance, fails, neglects or refuses to abate or remove the condition constituting the nuisance within thirty (30) days from receipt of the order, the town planner shall cause such condition to be removed or otherwise remedied by having employees of the town or independent contractors go upon such premises and remove or otherwise abate such nuisance under the supervision of an officer or employee designated by the Town Manager.

(b) Any person who has been ordered to abate a public nuisance may, within the time allowed by this chapter, request the town in writing to remove such condition, the cost of which shall be paid by the person making such request.

(c) In the event a local contractor cannot be obtained after a reasonable effort, the town board of commissioners shall be authorized to obtain the services of a contractor outside the immediate local area, and the costs thereof shall be deemed to be reasonable.

§ 9-5. Same-Costs.

The actual cost incurred by the town in removing or otherwise remedying a public nuisance shall be charged to the owner of such lot or parcel of land; and it shall be charged to the owner of such lot or parcel of land; and it shall be the duty of the tax collector to mail a statement of such charges to the owner or other person in possession of such premises with

instructions that such charges are due and payable within thirty (30) days from the mailing thereof. If such costs charged in accordance with this Chapter are not paid as herein stated, the costs shall be a lien upon the land or premises where the nuisance arose and shall be collected as unpaid taxes.

§ 9-6. Exemptions.

These nuisance regulations are not designed or intended to affect or be enforceable against any legally created and recognized Bona Fide Farm as defined within the Town of Cedar Point Zoning Ordinance.

§ 9-7 General Penalty. In addition to the specific enforcement provisions contained in this Division, a violation hereof is subject to the General Penalty provisions set forth in §1-5 of this Code. *(Amended April 28, 2020)*

§ 9-8 Discharge of Firearms in Town Limits

It shall be unlawful for any person to fire or discharge a gun, rifle, pistol, or other firearm, within the Town except in the following cases:

- (1) In case of necessity in defense of persons or property; or
- (2) In the case of a police officer or law enforcement personnel lawfully discharging their duties. *(Amended July 28, 2020)*

§ 9-9 to 9-20. Reserved.

Division II. Noise.

§ 9-21. Loud and disturbing noise.

(a) *Prohibition.* Subject to the provisions of this section, it shall be unlawful for any person or persons to make, permit, continue or cause to be made or to create any unreasonably loud, disturbing and unnecessary noise in the town. For purposes of this section, the following definitions shall apply:

(1) *Unreasonably loud:* Noise which is substantially incompatible with the time and location where created to the extent that it creates an actual or imminent interference with peace or good order;

(2) *Disturbing:* Noise which is perceived by a person of ordinary sensibilities as interrupting the normal peace and calm of the area;

(3) *Unnecessary:* Any excessive or unusually loud sound or any sound which is of such character, intensity and duration as to disturb the peace and quiet of any neighborhood or which disturbs, injures or endangers the comfort, repose, health, peace or safety of any person, and being a type of sound which could be lessened or otherwise controlled by the maker without unduly restricting his conduct.

In determining whether a noise is unreasonably loud, disturbing and unnecessary, the following factors incident to such noise are to be considered: Time of day; proximity to residential structures; whether the noise is recurrent, intermittent or constant; the volume and intensity; whether the noise has been enhanced in volume or range by any type of electronic or mechanical means; the character and zoning of the area; whether the noise is related to the normal operation of a business or other labor activity; whether the noise is subject to being controlled without unreasonable effort or expense to the creator thereof.

(b) *Prohibited noise sources.* This section is enacted pursuant to the authority of G.S. 160A-184. Pursuant to this authority the creation of noise from the following sources is prohibited:

(1) The use of any loud, boisterous or raucous language or shouting so as to annoy or disturb the quiet, comfort or repose of any person in the vicinity.

(2) The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle while not in motion, except as a danger signal if another vehicle is approaching apparently out of control, or if in motion only as a danger signal.

(3) The playing of any radio, phonograph, musical instrument or any other machine or device for the production or reproduction of sound in such manner or with such volume, as to annoy or disturb the quiet, comfort or repose of any person in any dwelling, hotel or other type of residence.

(4) The use of any automobile, motorcycle or other vehicle so out of repair, or so loaded in such manner as to create loud grating, grinding, rattling or other noise.

(5) It shall be unlawful for any dog owner or other type animal owner to keep or have a dog or other type animal that habitually or repeatedly barks, whines, howls, crows, cackles, or any other noise that might interfere with the reasonable use and enjoyment of neighboring premises.

(6) The playing of any radio, cassette player, compact disc, videotape or disc or other similar device for reproducing sound located on or in any motor vehicle on a public street, highway, within any public vehicular area, within the motor vehicular area of any public or private parking lot or park or on the premises of a private residence in an unreasonably loud, annoying, disturbing or unnecessary manner as defined above. A presumption is created that the sound thus created is unreasonably loud, annoying, disturbing and unnecessary if the sound generated or noise vibration therefrom is audible or can be felt at a distance of 30 feet or more from the radio, cassette player, compact disc, video tape or disc or other similar device that is producing the sound.

(c) *Restrictions on prohibition.* Creation of the noise described in subsection (a) above is prohibited only under the following circumstances:

(1) The noise is of such character, intensity and duration as to be detrimental to health, safety or welfare of an individual with normal hearing and of normal sensibilities at a distance greater than 50 feet from the source of such noise, and

(2) The noise is created, particularly but not limited to, between the hours of 11:00 p.m. and 7:00 a.m.

(d) *Exemptions.* The following uses and activities shall be exempt from the noise regulations set forth in this section:

(1) Noise of safety signals and warning devices.

(2) Noises resulting from any authorized emergency vehicle when responding to an emergency call or acting in time of an emergency.

(3) Sounds emitting from scheduled outdoor athletic events.

(4) Sounds from church bells and church chimes when a part of a religious observance or service.

(5) Any event held in recognition of any community celebration or national, state or county events, fairs, or public events.

(e) *Penalty for violation.*

(1) No person shall be charged with violating this section without first being warned by a law enforcement officer that their actions constitute a violation of this section and given an opportunity to bring their conduct into compliance with this section.

(2) If any person or persons shall violate this section, he or she shall be subject to the penalties and actions of Section 1- 5 of this Town Code.

§ 9-22. Amplified Sound Restrictions.

(a) Without limiting the applicability of any other provision of this Division, no commercial establishment shall play, operate, or cause to be played or operated, any amplified musical instrument or amplified sound reproduction device ("amplified sound" herein") in a manner that causes a noise disturbance on any neighboring premises or public area. For the purposes of this section, a noise disturbance shall be presumed to exist where the amplified sound is plainly audible within any occupied structure one hundred feet from the source of the sound.

(b) This section shall not apply to an activity for which an amplified sound permit has been issued pursuant to the following subsections:

(1) Any owner or occupant of a property in any zoning district may apply to the Town Manager for an amplified sound permit at least one week in advance of the use of amplified sound that may be a violation of this section. Such application shall state the applicant's name, physical street address, and telephone number, and the location of the amplified sound for which the permit is sought and the dates and times for which the amplified sound is requested.

(2) If the applicant, or the location for which the amplified sound permit is sought, has not been found to be in violation of this Division in either an internal town administrative action or a criminal action within the preceding 18 months, the Town Manager shall issue the amplified sound permit.

(3) Upon issuance of the amplified sound permit, the Town Manager shall notify the Carteret County Sheriff's Department and attempt to notify all property owners within a 200 feet radius of the site of the amplified sound permit and advise that a permit has been issued and the dates and time the permit is effective.

(4) An amplified sound permit will state the dates, times, and location for which the permit is issued, and may be effective for one year. All permits are subject to the following:

a. Amplified sound permitted under this section shall not be used for more than three consecutive days.

b. There must be a minimum of five days between use of a permit and resumption of the use of the permit, except the permit may be used for the consecutive days specified in the permit.

c. The cumulative total number of days during a twelve month period an amplified sound permit can be effective is twenty four.

d. The permit will only be effective between the hours of 7:00 a.m. and 11:00 p.m. of the same day. The permit will not authorize amplified sound that causes a noise disturbance between 11:00 p.m. and 7:00 a.m. the following day.

e. Amplified sounds that shock the sensibilities of a reasonable person are not authorized by an amplified sound permit.

(c) The uses stated in Sec. 9-21 (d) are exempted from this section.

§ 9-23. Reserved

§ 9-24. Off-road vehicles.

(a) It shall be unlawful for any person to operate or cause to be operated a recreational or off-road motor vehicle individually, in a group, or in an organized racing event, on public or private property in such a manner that the sound level creates an identified nuisance as described within this Division. Determination of noise emanating from off-road vehicles being a nuisance shall be made after said noise is adjusted to a distance of thirty (30) feet from the path of the vehicle when operated on public space, or at the boundary of private property when operated on private property.

(b) This subsection shall apply to all recreational vehicles, whether or not duly licensed or registered including, but not limited to, commercial or noncommercial racing vehicles, motorcycles, go-carts, amphibious craft and dune buggies.

(c) Use of such vehicles off-road except for emergency purposes and except to attain access from private property to public rights-of-way, shall be completely prohibited between the hours of 11:00 p.m. and 7:00 a.m.

§ 9-25. Soliciting business.

It shall be unlawful in the town for any person to make any noise upon a public street or in such proximity thereto as to be distinctly and loudly audible upon such street by any kind of crying, calling or shouting or by means of any whistle, rattle, bell, gong, clapper, horn, hammer, drum, musical instrument or other device for the purpose of attracting attention or of inviting patronage of any persons to any business whatsoever.

§ 9-26. Complaint procedure.

If any person shall have reasonable grounds for believing that the provisions of this Division are being violated, he may make a report thereof to the Town. The Town Manager, or another duly appointed representative, shall investigate and take such enforcement action as he deems necessary.

State law reference(s)--Municipal authority to regulate noise, U.S. 160A-184.

Chapter 10 - Reserved.

Chapter 11

Solid Waste

Division I. Solid Waste Disposal Ordinance.

§ 11-1. Definitions.

For the purpose of this Division, certain terms and words are defined as follows:

Construction debris means rubbish from construction, remodeling, and repair operations on houses, commercial buildings, and other structures, including, but not limited to, excavated earth stones, brick, plaster, lumber, concrete and waste parts occasioned by installations and replacements.

Business location means any structure that is adapted for transaction of business, for rendering of professional services, for amusement, for the display or sale or storage of goods, wares, merchandise, articles or equipment, including hotels, rooming houses, mobile home parks, campgrounds, office buildings, public buildings, stores, theaters, markets, restaurants, warehouses, sheds, barns, and other structures or premises used for or adapted to business, rental, commercial, or income-producing purposes.

Business Residence. One parcel consisting of both a residence and business activity. The residence must be physically attached to the business.

Garbage means animal and vegetable waste materials resulting from the handling, preparation, cooking, and consumption of food, including a minimum amount of liquid necessarily incident thereto.

Hazardous refuse means materials such as poisons, acids, caustics, chemicals, infected materials, offal, explosives, radioactive

materials, and other volatile or potentially dangerous substances.

Industrial waste means sawdust, shavings, feathers, cartons, boxes, metal, glass, paper, wood, textiles, chemicals, plastic, or other waste materials from processing plants, factories, or manufacturing operations.

Refuse means all solid waste, including, but not limited to, garbage, rubbish and waste.

Rubbish means dry waste materials, including but not limited to paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tin cans, metals, small mineral matter, glass, crockery, dirt, earth, and dust.

Waste means useless, unused, unwanted, or discarded materials resulting from natural community activities, including solids, liquids and gases.

White goods means old and/or discarded refrigerators, washers, dryers, water heaters, stoves, and other appliances taken from or removed from a residence or business location.

Yard debris means tree, bush, and hedge branches, cuttings and trimmings, yard trimmings, grass, leaves, and other natural organic matter removed from the property.

§ 11-2. Refuse Collection Practices.

(a) The town will provide for the collection, removal, and disposal of certain refuse in the town with the collection times, routes and schedules established by the town.

(b) The Town will provide Business Residences, as defined in this Chapter, located within the Corporate Limits of Cedar Point collection, removal, and disposal of certain refuse with the collection times, routes, and schedules established by the Town.

Business Residences have the option to provide their own refuse collection. If a Business Residence elects to do so, they must follow the practice as defined in § 11-2(c) of this Chapter.

(c) Business locations shall be required to arrange for the collection, removal, and disposal of refuse individually. The town does not provide these services for business locations.

(d) Industrial waste shall be collected, removed, and disposed of by the operator of the factory, plant, or enterprise creating or causing the same in accordance with the applicable provisions of this Code.

(e) Building rubbish/construction debris shall be collected, removed, and disposed of by the contractor or builder, or in their failure, by the owner of the property.

(f) No white goods item shall be collected, removed, and disposed of by the town.

(g) No hazardous waste shall be collected by the town.

§ 11-3. Collection and Disposal Practices for Business Locations.

(a) Every business location shall separately provide for and/or contract for the collection and disposal of all refuse regulated hereunder. Every such business location, upon written request from the town, shall notify the town in writing as to the method of refuse collection and disposal for that business location, the name of the contractor providing service, the frequency of collection, and the type and location of the container(s) to be used. Such business location shall provide such information in writing to the town in response to the town's request within fifteen (15) business days following notification.

(b) Any business or commercial location which shall fail to provide for or contract for refuse collection services required hereunder, or shall discontinue refuse collection services, so

that refuse shall accumulate or be placed upon the property or business location to such an extent that the town should thereafter determine that the conditions created by the accumulation of the refuse is dangerous or prejudicial to the public health or public safety, then the town shall have the authority to summarily remove, abate, or remedy said condition pursuant to G.S. 160A-193.

The town shall first notify the business or commercial location in writing that said condition is dangerous or prejudicial to the public health or safety and that said condition must be removed or abated, and upon failure of the business or commercial location thereafter to remove said public health nuisance, then the town pursuant to G.S. 160A-193, may summarily remove or abate said dangerous condition and may thereafter charge all costs of clean up and summarily abate said conditions to the business or commercial location, which shall be a lien upon the land or premises of the business or commercial location where the condition arose, and said fees or charges shall be collected as unpaid taxes.

§ 11-4. Refuse Containers.

Every residential unit where refuse exists shall provide a sufficient number of containers for each residential unit in which shall be deposited all refuse existing or generated at such premises.

(a) Each residential unit must have one and only one 96-gallon roll-out container. All containers shall be kept in good condition. A container in good condition will maintain the originally intended functionality of the container and prevent the intrusion of wind and precipitation.

(b) Each residential unit shall move the container to the curb in front of the residence prior to the collection on the day's trash is being collected.

Residential units occupied by individuals who are physically unable to roll-out a 96-gallon rollout container shall notify the town and arrangements will be made for collection of the container from beside the residence.

(c) Unless exempted by the Town, every condominium complex, townhouse complex, and multifamily location within the town required to use a bulk container shall be responsible for either purchasing or renting one (1) or more bulk containers at the separate cost of the condominium complex, townhouse complex, and/or multi-family location. Each condominium complex, townhouse complex, or multi-family location which is required to use bulk containers shall provide one (1) or more cement pads of sufficient size to accommodate not less than an eight (8) cubic yard dumpster, and when and if required, drainage shall be approved by the Carteret County Health Department. If the condominium complex, townhouse complex, or multi-family location should fail to provide one (1) or more bulk containers needed by said location following notification by the town, then the town shall cease to provide refuse collection services for the condominium complex, townhouse complex, or multi-family location.

(d) All business locations where refuse exists shall provide a sufficient number of containers in which shall be deposited all refuse existing or generated at such premises. All business locations shall provide containers consistent with the requirements of this § for residential units, or if directed by the town, must use bulk containers.

(e) All containers shall be inspected from time to time by the town for conformance with this chapter. If any container required by this chapter is found to be deficient at the site, then the town shall notify the owner and/or occupant of the deficiencies. Failure to correct the deficiencies within a period of fourteen (14) days thereafter may result in the town

suspending refuse collection services at the site until the deficiencies are corrected.

§ 11-5. Yard Debris.

Yard debris is collected and disposed of by the town twice a year, except in instances where the debris is caused by a major event. For scheduled, and special event, yard debris collections, the collection times, routes and schedules shall be established by the town and notification of the same shall be published to inform the citizens of the Town of Cedar Point. Yard debris may not be placed for pick-up more than two weeks prior to the published collection time, unless the town council orders otherwise.

§ 11-6. White Goods.

The Town of Cedar Point does not pickup white goods. Arrangements for pickup of these goods should be made with private contractors. Goods placed near the roadside for collection cannot remain there for a period of more than three (3) days. Every tenant, owner, and occupant of every house, residence, apartment, condominium, business, building or structure of any type shall be prohibited from placing on or near the street or on the lot or any location outside the building or structure any white goods for accumulation, collection, or removal except in strict accordance with this section. All refrigerators and freezers shall have the door removed or the latch mechanism disabled to prevent the door from locking prior to placement on or near the street.

§ 11-7. Unlawful to Displace Containers.

It shall be unlawful for any person except the owner, or upon permission or at the request of the owner, to damage, displace, or otherwise interfere with refuse containers or their contents.

§ 11-8. Solid Waste Disposal Fee.

Pursuant to N.C.G.S. 160A-314.1, the town hereby imposes an annual fee on all improved residential property for the availability of a disposal facility provided by the town through membership in the solid waste disposal authority formed by the counties of Carteret, Craven and Pamlico, and the municipalities therein. Said fees are imposed on all improved residential property in the town as hereinafter set forth. Improved residential property shall be defined as all residential real property on which any residential buildings, structures, vehicles, campers, utilities, paving, or other improvements are located, but shall exclude vacant property with only vegetation thereon and those condominiums, townhomes, and planned unit developments which provide for their own solid waste pickup. For purposes of this section, if any portion of a lot or tract of land is improved, then the entire parcel or lot shall be deemed improved. The fees imposed herein shall be established and amended from time to time by the board of commissioners, or as part of the annual budget adopted by the board of commissioners.

The fees imposed herein shall be billed with property taxes and are payable in the same manner as property taxes. Upon non-payment of said fees, the fees imposed herein may be collected in the same manner by which delinquent personal or real property taxes are collected, and the fees herein shall be a lien on the real property described on each tax bill that includes the fee. Individuals wishing to start solid waste pickup with the town shall notify the town clerk and complete an application for service. If the application is received following July 1, 2006 the applicant shall pay the pro rata portion of the fee charged for the annual service beginning in the month that the application is made. For example if a new application is received on August 17th the applicant would pay a pro rata fee based upon five months (August - December) of the annual service. Following the distribution of tax bills, the town

clerk shall monitor the bills for those individuals who received tax bills to determine if the solid waste fee has been collected. If it has not been collected the Town Clerk shall bill the owner of the property for any amount due for solid waste fees. Upon non-payment of said fees, the fees imposed herein may be collected in the same manner by which delinquent personal or real property taxes are collected, and the fees herein shall be a lien on the real property described on each tax bill that includes the fee.

§ 11-9. Penalties.

Any person violating any provision of this chapter shall be subject to a civil fine as outlined below:

(a) Insufficient Containment Capacity-- Refuse \$100.00

The Town Manager shall have the authority to dismiss said citation upon proof that the violator has purchased and placed in service a 96-gallon roll-out container consistent with the town's specifications.

(b) Containers not meeting town specifications—Refuse\$100.00

The Town Manager shall have the authority to dismiss said citation upon proof that the violator has purchased and placed in service a 96-gallon roll-out container consistent with the town's specifications.

(c) Containers not meeting town specifications—Recycling\$100.00

The Town Manager shall have the authority to dismiss said citation upon proof that the violator has purchased and placed in service a sufficient number of additional 35/40-gallon roll-out containers consistent with the town's specifications.

(d) All other violations of this ordinance\$50.00

(Previous ordinances adopted 04/26/2006; Amended 10/23/2010, & changes upon recodification)

Chapter 12.

Streets, Sidewalks and Other Public Property.

Division I. Streets.

§ 12-1. NCDOT Secondary Road Standards Adopted.

(a) The Secondary Road Standards of the State of North Carolina Department of Transportation are hereby adopted as the minimum standard of construction for all streets and roads to be accepted into the street system of the Town of Cedar Point by dedication and acceptance.

(b) Prior to the acceptance of any dedication of a street by the Town of Cedar Point the Town shall cause the street to be inspected by an engineer employed by the town to determine whether or not the dedicated street meets the Secondary Road Standards of the State of North Carolina Department of Transportation and, if not, what the deficiencies are. If the street meets the standards and if the Town Board deems inclusion of the street into the system of streets for the Town of Cedar Point the Town Board may then by resolution include the street into the town street system.

(c) If the street does not meet the Secondary Road Standards of the State of North Carolina, the Town Board shall request the dedicator and/or adjoining land owners to make such improvements to the street as shall be necessary to meet the Secondary Road Standards of the State of North Carolina. The Town Board shall delay the inclusion of the street into the system of streets for the Town until such improvements have been made and the street reexamined by the town engineer.

(d) Notwithstanding the above, the dedicator and/or adjoining land owners can request that the Town Board exempt the street from the

requirement to meet the Secondary Road Standards of the State of North Carolina Department of Transportation and for good cause shown, the Town Board may grant the exception for all or any portion of the identified deficiencies in the street and accept it into the system without compliance with all of the Secondary Road Standards of the State of North Carolina.

(e) Nothing in this Division shall be construed to require that streets currently within the street system of the Town of Cedar Point, or subsequently accepted into the street system of the Town of Cedar Point, to be improved to meet the Secondary Road Standards of the State of North Carolina.

(f) Nothing in this Division shall be construed to require that a private land owner meet the Secondary Road Standards of the State of North Carolina for any street or road constructed on his or her own property, unless required by subdivision or other ordinance. However, anyone who constructs a street contemplating that the Town of Cedar Point will accept the dedication of the street is strongly encouraged to construct the street to the minimum standards adopted by this Division.

§ 12-2. Digging, Excavation and Utility Work Regulated.

(a) It shall be unlawful for any person, firm or corporation to dig or excavate or cause another to dig or excavate within the right-of-way of any street, highway, sidewalk or other public passage without a permit issued by the Town Manager; however, if the digging or excavation is in a state right-of-way and no sidewalk will be effected by the work, no permit is needed if the work is approved in writing by the NC Department of Transportation.

The Town Manager will issue a permit for such work upon the applicant's agreement to perform the work in a manner which will cause the least amount of disruption to traffic; placing adequate warning signs or personnel at the site of the excavation to notify the public of the work in progress; and to promptly restore the right-of-way, and any pavement therein, to its pre-work condition. The Town Manager shall have the authority to require such agreement to be bonded or otherwise secured.

(b) Any excavation that is done will promptly be refilled and, in so doing, the excavator shall refill the excavation in layers no greater than 12 inches deep at any one time and each layer shall be compacted, to a compaction of 100%, prior to the excavator adding another layer to refill the excavation. In the case of a non-paved road, the excavator shall replace the road surface with a final layer of marl which shall be no less than 10 inches deep. In the case of a road with a paved surface, the surface shall be replaced with an asphalt surface no less than 2 inches deep.

(c) Any Public Utility, private utility, or other person who shall install or repair lines, pipes, wire or similar conduit for power or communications by plowing the same into the right-of-way, shall compact the disturbed area with a vibrating compactor to a compaction of 100% to the bottom of the disturbed area.

(d) Any person who excavates upon the right-of-way of any street, highway or other public passage impliedly warrants the repair done to the street for a period of one year from the date such repair is completed.

(e) All Public Utility Companies, and private utilities, operating within the Town of Cedar Point, prior to excavation of any street, highway or other public passage, provide to the Town Manager, who is responsible for the streets within the town, a map showing the location of all improvements, fixtures or

appliances to be located upon or under the right of said street, highway or other public passage.

(f) It shall further be unlawful for any adjoining landowner to obstruct the right-of-way of any street, highway or other public passage within the Town of Cedar Point. Said obstruction shall include, but not be limited to, poles, fences, trees, plantings or other objects which interfere with free travel over the right-of-way.

(Ordinance, 2/27/90)

§ 12-3 to § 12-10. Reserved.

Division II. Sidewalks.

§ 12-11. Digging, Excavation and Utility Work Regulated.

(a) It shall be unlawful for any person, firm or corporation to cut or damage any public sidewalk without a permit issued by the Town Manager. The Town Manager will issue a permit for such work upon the applicant's agreement to perform the work in a manner which will cause the least amount of disruption to pedestrians; placing adequate warning signs or personnel at the site of the work to notify the public of the work in progress; and to promptly restore the sidewalk to its pre-work condition. The Town Manager shall have the authority to require such agreement to be bonded or otherwise secured.

(b) Any person who cuts a sidewalk impliedly warrants the repair for a period of one year from the date such repair is completed.

(c) In addition to the penalties for violating provisions of the Town Code, any person, firm or corporation who does not properly restore a public sidewalk after damaging the same, shall be liable to the town for all costs of restoration.

§ 12-12 to § 12-20. Reserved.

Division III. Public Property.

A. Smoking in Municipal Buildings and Vehicles.

§ 12-21. Definitions.

Smoking shall mean the inhaling exhaling, burning or carrying of a lighted pipe, cigar, cigarette or other combustible tobacco product.

§ 12-22. Smoking Regulated in Municipal Buildings.

It shall be unlawful for any person to smoke in any building or facility or portion of a building or facility now or hereafter owned, leased, operated, occupied, managed, or controlled by the town, except in specially designated smoking areas. The Town Commissioners shall, have the authority to designate smoking areas within each town building or facility. An area within any building or facility may be designated as a smoking area only if the ventilation of such area is sufficient, any adverse impact on municipal employees and members of the public is minimal, and no fire or other safety hazard will be created by smoking in such area.

§ 12-23. Smoking Prohibited in Municipal Vehicles.

It shall be unlawful for any person to smoke in any vehicle now or hereafter owned or leased by the town.

§ 12-24 to § 12-30. Reserved.

B. Carrying Concealed Weapons on Municipal Property.

§ 12-31. Concealed Weapons Prohibited on Municipal Property.

The carrying or possession of a concealed firearm on municipal owned property is prohibited.

§ 12-32. Posting of Signs Required.

The Town Clerk is hereby authorized and instructed to post conspicuous signage at appropriate locations on or within each park and each building or portion of a building owned, leased as lessee, operated, occupied, managed or controlled by the town, as well as the appurtenant premises to such buildings, indicating that carrying a concealed firearm is prohibited therein.

§ 12-33. Location of Signs.

Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The Town Clerk shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and parks.

§ 12-34. Exceptions.

This Division shall not apply:

- a. To law enforcement officers who are authorized to carry concealed weapons acting within their authorization; and
- b. To members of the public within motor vehicles on municipal streets.
- c. To members of the public within motor vehicles on municipal parking lots.

Chapter 13

Traffic and Motor Vehicles

Division I. Speed Limit.

§ 13-1. Speed Limit Established.

(a) The speed limit for motor vehicles within the Town of Cedar Point on streets that are not part of the State Highway System is hereby established to be twenty- five (25) Miles Per Hour.

(Ordinance, 8/24/1999)

(b) It shall be unlawful to operate a motor vehicle within the Town of Cedar Point at a speed in excess of forty-five (45) Miles Per Hour:

- a. on North Carolina Highway 24 from a point 0.20 mile east of the Onslow County line, eastward to a point 0.08 mile west of North Carolina Highway 58,
- b. on VFW Road from its intersection with NC Highway 58 to its intersection with Croatan Forest Road, and
- c. on Old NC Highway 58 from its intersection with NC Highway 24 to its intersection with VFW Road.

(Ordinance, 4/25/1989 and revision on adoption of Town Code)

§ 13-2 to § 13-10. Reserved.

Division II. Traffic Control

§ 13-11. Obedience to official traffic control devices generally.

The driver of any vehicle and any pedestrian shall obey the instructions of any applicable official traffic control device placed in

accordance with the provisions of state law, this chapter and other ordinances of the town, unless otherwise directed by a law enforcement officer, subject to the exceptions granted by this chapter to the driver of an authorized emergency vehicle.

§ 13-12. Placement, change and removal of official traffic control devices of the town—Generally.

(a) Traffic control devices of the town shall be placed, erected, installed, changed or removed only upon order of the board of commissioners pursuant to action taken by the board and entered upon its minutes, and any such action shall be by ordinance when so required by law.

(b) Unless otherwise provided by the board of commissioners in any instance, such orders of the board shall be executed under the direction of the Town Manager or the Town Attorney.

(c) Signs shall not be erected within existing rights-of-way except as provided herein.

(d) Any sign placed erected, installed, or changed in violation of the provisions contained herein shall be subject to immediate removal and impoundment by the Town of Cedar Point.

State law reference(s)--Authority of board of commissioners to install, change and remove traffic control devices, G.S. § 20-141, 20-158, 20-169, 136-31.

§ 13-13. Same - Types authorized.

Traffic control devices of the town within the purview of § 13-12 shall include, but shall not be limited to, those indicating:

- (a) Stop and yield intersections;
- (b) Speed restrictions;

- (c) Limited or prohibited turning movements;
- (d) One-way streets;
- (e) Dead end streets;
- (f) Prohibited and restricted parking areas;
- (g) Truck routes and other restrictions as to vehicle types permitted to be driven upon the streets;
- (h) School zones;
- (i) Safety zones;
- (j) Zones of quiet;
- (k) Play streets;
- (l) Bus stops;
- (m) Taxicab stands;
- (n) Loading zones;
- (o) Business and residence districts;
- (p) Tow away zones; and
- (r) No outlet

§ 13-14. Petition for Sign Placement.

Any individual desiring the erection of a traffic control device, as defined within this Chapter, shall be required to adhere to the following procedure for approval:

(a) Any interested party requesting the installation of a traffic control device shall fill out an application requesting the sign. Within the application the following information shall be required:

- (1) Name of applicant;

- (2) Address and contact information for the applicant;
- (3) Specific type of sign requested;
- (4) Requested location for requested sign;
- (5) Rationale for requested sign; and
- (6) Map showing the location of the requested sign.

(b) Any application requesting the installation for a traffic control device shall include a non-refundable \$100.00 processing fee. The completed application, along with the processing fee, shall be submitted to the Town Clerk.

(c) Upon verification that the application is complete, the Town Clerk shall transmit a copy of the request to the Cedar Point Planning and Development department for review. The Planning department shall verify that the request is for the erection of a legal permitted traffic control device, that the requested location for the sign is upon a public street, and that there are no other outstanding issues associated with the physical location of the requested traffic control device.

(d) The Planning department shall report findings to the Town Clerk with a recommendation to allow or reject the request. A request can be rejected if it is discovered that:

- (1) The requested traffic control device is not permitted under this Division;
- (2) There is no location for the traffic control device that would not create a safety hazard for local motorists or pedestrians;
- (3) he requested traffic control device is not consistent with the requirements of this Division;

(4) The requested traffic control device shall impede normal sanctioned use of the public right-of-way;

(5) The proposed location of the requested traffic control device will not address the cited problem; or

(5) The traffic control device is determined not to be necessary to protect the public's health, safety, or welfare.

(e) The application, along with the report from the Planning department, shall be placed on the agenda of the next regular Board of Commissioners meeting for review and approval. The approval of a sign application shall be conducted in accordance with the requirements of this Division as outlined in § 13-12.

(f) If the application is approved, the Town shall direct the Planner to order the appropriate sign and erect it at the approved location.

§ 13-15. When signs required for enforcement of chapter.

No provision of this chapter for which signs are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official sign is not in proper position and sufficiently legible to an ordinarily observant person or a sign has not been erected in accordance with the provisions of this Division.

§ 13-16. Traffic control signal legend.

Whenever traffic is controlled by official traffic control signals exhibiting the words "go", "caution" or "stop" or exhibiting different colored lights successively one (1) at a time the following colors only shall be used, and such words and lights shall indicate as follows:

(a) *Green alone, or "go."*

(1) Vehicular traffic facing the signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection at the time such signal is exhibited.

(2) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk:

(b) *Yellow alone, or "caution," when shown following the green or "go" signal*

(1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at the intersection, but if such stop cannot be made in safety a vehicle may be driven cautiously through the intersection.

(2) Pedestrians facing such signal are thereby advised that there is insufficient time to cross a roadway, and any pedestrian then starting to cross shall yield the right-of-way to all vehicles.

(c) *Red alone, or "stop."*

(1) Vehicular traffic facing the signal shall stop before entering the nearest crosswalk at an intersection or at such other point as may be indicated by a clearly visible line, and shall remain standing until green or "go" is shown alone.

(2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic,

(d) *Green straight-through arrow (alone).*

(1) Vehicles facing such signal may proceed straight through, but shall not turn right or left. Such vehicles shall yield the right-of-way to other vehicles and to pedestrians legally within the intersection at the time such signal is exhibited.

(2) Pedestrians facing such signal may proceed across the roadway within the appropriate marked or unmarked crosswalk unless directed otherwise by a pedestrian signal.

(e) *Green turn arrow (alone).*

(1) Vehicles facing such signal may proceed through the intersection making only the turn so indicated by the arrow over the respective lane, Such vehicles shall yield the right-of-way to other vehicles and pedestrians lawfully within the intersection at the time such signal is exhibited.

(2) Pedestrians facing such signal shall not enter the roadway unless they can do so safely and without interfering with any vehicular traffic.

(f) *Green turn arrow (with steady red).*

(1) Vehicles facing such signal shall comply with the steady red, except that such vehicle may cautiously enter the intersection to make the movement indicated by the green turn arrow. Vehicles shall yield the right-of-way to pedestrians lawfully within a crosswalk and to other traffic lawfully using the intersection.

(2) No pedestrian facing such signal shall enter the roadway unless he can do so safely and without interfering with any vehicular traffic.

§ 13-17. Flashing Signals.

Whenever official flashing red or yellow signals are used they shall require obedience by vehicular traffic as follows:

(a) *Flashing red (stop signal).*

When a red lens is illuminated by rapid intermittent flashes, drivers of vehicles shall stop before entering the nearest crosswalk at an

intersection, or at a limit line when marked, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.

(b) *Flashing yellow (caution signal).*

When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.

§ 13-18. Pedestrian control signs generally.

Whenever official pedestrian control signals exhibiting the words “walk” or “don’t walk” are in place, such signals shall indicate as follows:

(a) *Walk.*

Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by drivers of all vehicles.

(b) *Don’t walk.*

No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the “walk” signal shall proceed to a sidewalk or safety zone while the “don’t walk” signal is showing.

State law reference(s)--Rights of pedestrians at traffic control signals, G. S. § 20-172.

§ 13-19 to § 13-30. Reserved.

Division III. Operation of Vehicles.

State law reference(s)--Operation of vehicles and rules of the road, G.S. § 20- 138 et seq.

§ 13-31. Procedure upon approach of an authorized emergency vehicle.

Upon the approach of an authorized emergency vehicle giving audible or visual signal, the driver of any other vehicle shall immediately drive to a position as near as possible, to and parallel with, the right-hand edge of the roadway, clear of any intersection, and shall stop and remain stopped until the authorized emergency vehicle shall have passed, except as he may be directed otherwise by a police officer; but upon a one-way street, drivers may stop at either the left-hand or right-hand edge of the roadway.

State law reference(s)--Similar provisions, G.S. § 20-157.

§ 13-32. Following fire apparatus; parking at scene of fire.

It shall be unlawful for the driver of any vehicle, other than one on official business, to follow any fire apparatus traveling in response to an alarm at a distance closer than one (1) block or four hundred (400) feet, whichever is less, or to park such vehicle within one (1) block or four hundred (400) feet, whichever is less, of where fire apparatus has stopped in answer to a fire alarm.

State law reference(s)--Similar provisions, G.S. § 20-157.

§ 13-33. Driving through funeral processions.

No vehicle shall be driven through a funeral procession, except authorized emergency vehicles when responding to calls.

§ 13-34. Limitation on backing movements.

The driver of a vehicle shall not back such vehicle into any intersection, or over a crosswalk, and shall not in any event, or at any place, back a vehicle unless such movement can be made in safety, and he shall have given

ample warning to those who may be behind, by hand and horn or other signal.

§ 13-35. Emerging from alley or private driveway.

The driver of a vehicle emerging from an alley, driveway or building shall stop such vehicle immediately prior to driving onto a sidewalk, or into the sidewalk areas extending across any alleyway, and upon entering the roadway lie shall yield the right-of-way to all vehicles approaching on such roadway.

State law reference(s)--Similar provisions, G.S. § 20-156.

§ 13-36. Clinging to motor vehicles.

No person riding upon any bicycle, motorcycle, coaster, sled, roller-skates or toy vehicle shall attach the same or himself to any public conveyance or moving vehicle upon any roadway.

§ 13-37. Riding coasters, roller-skates, golf carts, etc., restricted.

No person on or upon any motorized roller-skates, motorized in-line skates, motorized skate boards, or operating, riding in, on or by means of, any motorized coaster, toy vehicle, off-the-road vehicle, unlicensed all-terrain vehicles (ATV), unregistered motorized golf cart, or similar device shall go upon any street, highway, roadway, or multiuse pedestrian path.

§ 13-38. One-way streets.

When signs have been erected giving notice that certain streets or portions of streets are limited to traffic in a certain direction as designated on the official traffic maps of the town, no person shall operate a vehicle on such streets or portions of streets except in the direction indicated by such signs.

§ 13-39. Yield intersections.

When signs have been erected at those intersections designated as yield right-of-way intersections on the official traffic maps of the town as adopted by the board of commissioners, the driver of any vehicle shall approach such intersection with caution and shall yield the right-of-way to any vehicle approaching on the intersected street

§ 13-40. Stop intersections.

When signs have been erected at those intersections designated as stop intersections on the official traffic maps of the town as adopted by the board of commissioners, no person shall drive a vehicle into such an intersection unless he shall have come to a complete stop and has determined that such movement will not conflict with traffic.

§ 13-41 to § 13-50. Reserved.

Division IV. Stopping, Standing and Parking.

State law reference(s)—Authority of town to regulate parking, G. S. § 20-169, § 160A-301; parking generally, G.S. § 20-161--20-163.

§ 13-51. Stopping in streets prohibited; exceptions.

No vehicle shall stop in any street except for the purpose of parking as prescribed in this chapter, unless such stop is made necessary by the approach of fire apparatus, by the approach of a funeral or other procession which is given the right-of-way, by the stopping of a public conveyance, by the lowering of railway gate by the giving of traffic signals, by the passing of some other vehicle or a pedestrian or by some emergency. In any case covered by these exceptions such vehicle shall stop so as not to obstruct any footway, pedestrian aisle, safety zone, crossing or street intersection if such can be avoided.

§ 13-52. Obstructing passage of other vehicles.

No vehicle shall so stand on any street as to interrupt or interfere with the passage of public conveyances or other vehicles.

§ 13-53. Double parking prohibited.

No person shall double park or stop a vehicle next to and alongside any vehicle parked at the curb, so as to obstruct the normal movement of traffic.

§ 13-54. Parking for certain purposes prohibited.

No person shall stand or park a vehicle upon any public street for the principal purposes of

- (a) Displaying it for sale;
- (b) Washing, greasing or repairing such vehicle, except for repairs necessitated by an emergency;
- (c) Storage thereof by garages, dealers or other persons when such storage is not incident to the bona fide use and operation of such automobile or other vehicles;
- (d) Storage of any detached trailer or van when the towing unit has been disconnected or for the purpose of transferring merchandise or freight from one (1) vehicle to another;
- (e) Advertising.

§ 13-55. Parking in certain places prohibited.

No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device in any of the following places:

- (a) On the sidewalk;

- (b) Within an intersection;
- (c) On a crosswalk;
- (d) Within thirty (30) feet of any flashing beacon, stop sign or traffic control signal located at the side of a street or roadway;
- (e) Alongside or opposite any street excavation or obstructions when such stopping, standing or parking would obstruct traffic;
- (f) Within fifteen (15) feet in either direction of the entrance to a hotel, theater, hospital, sanatorium or any public building;
- (g) On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street; or
- (h) Parking in areas designated as being ‘no parking’ or parking longer than a specified time limit previously approved by the Town of Cedar Point and clearly marked on existing traffic control devices along the public street.

§ 13-56. Parking in front of private driveway or within fifteen (15) feet of fire hydrant, etc., prohibited.

No person shall park a vehicle or permit it to stand, whether attended or unattended, in front of a private driveway or within fifteen (15) feet, as measured along the street right-of-way in either direction, of a fire hydrant or the entrance to a fire station.

State law reference(s)--Parking in front of fire hydrant, private drive or fire station, GS § 20-162.

§ 13-57. Certain locations prohibited.

- (a) It shall be unlawful for any person to park a vehicle along both sides of North Carolina Highway 24 from the western corporate limits of the Town of Cedar Point, at the Onslow County line, eastward to the eastern

corporate limits of the Town of Cedar Point, a point 0.08 mile west of North Carolina Highway 58.

- (b) It shall be further unlawful for any person to park a vehicle along both sides of North Carolina State Road 1202 from North Carolina Highway 24, northward to the end of North Carolina State Road 1202 at a point 0.30 mile north of North Carolina Highway 24.

- (c) Violation of this section shall be an infraction under NCGS § 14-4 and punishable by a fine of not more than twenty-five (\$25.00) dollars.

§ 13-58. Fire lanes.

- (a) Parking or obstruction prohibited It shall be unlawful for any person to park and leave unattended a motor vehicle or to put or place any other object, structure or obstruction in a fire lane which has been properly established and marked.

- (b) Towing of unlawfully parked vehicles. In addition to the civil penalty provisions described within the Town of Cedar Point Code of Ordinances, any vehicle unlawfully parked in a properly designated and marked fire lane may be removed or towed to a storage garage at the vehicle owner’s expense.

§ 13-59. Parking on certain streets.

When signs have been erected giving notice that certain streets or portions of streets as designated on the official traffic maps of the town are subject to certain restrictions or limitations on the parking of vehicles, no person shall park any vehicle on such streets or portions of streets except in conformity with the directions of such signs.

§ 13-60. Unattended motor vehicles.

Where parking is permitted, no driver or person in charge of a motor vehicle shall permit it to stand unattended within the right-of-way of a public street or highway or public vehicular area without first stopping the engine, effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway or street.

(Ord. No. 96-01-000, Pt. I, 1-8-96 with revision upon adoption of Town Code)

§ 13-61 to 13-70. Reserved.

Division V. Enforcement.

§ 13-71. Ticketing of vehicles.

(a) Required.

Whenever a member of the Carteret County Sheriff's Department, or other person charged by this Code or other ordinance with the enforcement of the provisions of this Code or other ordinances of the town regulating the parking of vehicles, shall find that any of such provisions are being or have been violated by the owner or operator of any vehicle, such person shall notify such owner or operator of such violation by conspicuously attaching to such vehicle a notice or ticket, in such form as the Town Board of Commissioners may determine.

(b) Contents.

Such notice or ticket shall require the owner or operator to report in person to the Town Hall within forty-eight (48) hours after such notice is given and answer to same or to return such ticket or notice by mail with the civil penalty, as set out within this Division.

(c) Personal appearance.

Personal appearance will not be necessary if the Town receives such penalty within forty-eight (48) hours of issuance of such notice or ticket.

§ 13-72. Civil penalty for traffic violations.

(a) Generally.

The owner or operator of any such vehicle who has been notified of such violation in the manner provided within this Division may, within the time specified in the notice, present himself by mail, or in person with the notice or ticket at the Town Hall and answer to the violations noted on such notice or ticket by voluntarily paying the civil penalty in accordance with the town's current consolidated fee schedule for each violation involving double parking, parking in loading zones, parking in traffic lanes, parking in front of a fire hydrant or within a fire hydrant zone, parking over the allowed time, parking during the time prohibited or such other violations as may by later laws or ordinances be deemed to fall within the penalty provisions of this section .

(b) Construction.

The penalty provided in this Division to be paid to and received by the Town of Cedar Point shall in no event be construed to be enforced imposition of fines or forfeitures, but such amounts shall be construed to be civil penalties which offenders may voluntarily pay for those minor traffic law violations which are expressly made to fall within the application of this Division and to the extent herein provided.

(c) Disposition of proceeds.

All penalties paid to the Town as provided in this Division shall be paid into the general fund of the town and disbursed according to law.

§ 13-73 to § 13-80 Reserved.

Division VI. Driveway Access.

§ 13-81. Access onto Public Streets.

Access onto Public Streets shall be governed by the following standards:

(a) Each property shall be allowed one (1) curb cut on a street to allow for vehicular ingress and egress. Property owners desiring multiple driveway access points shall be allowed to make an application to the Town of Cedar Point Board of Commissioners requesting additional access based on the following criteria:

(1) A lot fronting Highway 24 (Cedar Point Boulevard) or Old Highway 58 must have one hundred fifty (150) feet of frontage along the street before two (2) curb cuts are allowed on the same street. Three hundred (300) feet of frontage is required on these streets before a third curb cut allowing access to the street is allowable. In no case shall there be more than three (3) curb cuts on any one (1) of the above streets.

(2) On all other streets curb cuts in excess of one (1) are allowed if the board of commissioners determines that more than one (1) curb cut is necessary or desirable to facilitate traffic flow.

(3) On all corner lots, no vehicular openings shall be located closer than thirty-six (36) feet from the point of intersection of the street right-of-way lines. Entrances/exits shall not exceed thirty-six (36) feet in width measured at the property line; however, in instances where parking lots serve tractor/trailer traffic, the driveway entrance/exit may be increased to forty (40) feet in width.

(4) On all corner lots, there shall only be one (1) vehicular opening allowed per street frontage regardless of street frontage to avoid traffic congestion or safety hazards.

(5) The Town of Cedar Point reserves the right to restrict, condemn, or prohibit multiple drive way access points if it believes that there is insufficient turning radius to allow for the safe passage of vehicles on a street.

§ 13-82 to § 13-90. Reserved.

Division VII. Junked, Abandoned, or Nuisance Motor Vehicles.

§ 13-91. Intent.

It shall be the intent of this Division to promote and enhance the aesthetic appearance of the Town and its Extraterritorial Jurisdiction ("ETJ") and to protect the property values throughout the Town. It is further the intent of this Division to promote and enhance the attractiveness of the Town's thoroughfares and residential streets, which present public visibility to visitors and to passersby of the Town by controlling and regulating abandoned and junked vehicles. It is further the intent of this Division to protect the general public health, safety, and welfare of all residents within the corporate limits and the ETJ from the location of abandoned, nuisance, or junked motor vehicles within the Town of Cedar Point.

§ 13-92. Definitions.

For the purposes of this Division, certain words and terms are defined a herein indicated:

Abandoned vehicle: As authorized and defined in §160A-303 of the General Statutes, an abandoned motor vehicle is a motor vehicle which:

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

(b) Is left on a public street or highway for longer than seven (7) days; or

(c) Is left on property owned or operated by the Town of Cedar Point for longer than twenty-four (24) hours;

(d) Is left on private property without the consent of the owner, occupant or lessee thereof; for longer than two (2) hours; or

(e) Is left within an identified tow-away zone for longer than forty-eight (48) hours after formal citation has been issued to the owner or operator in accordance with this Division.

Authorizing official: The Town Manager, or their designee, is designated to authorize the removal of vehicles under the provisions of this Division.

Junked motor vehicle: As authorized and defined in § 160A-303.2 of the General Statutes, the term “junked motor vehicle” means a vehicle that does not display a current license plate upon that vehicle and that:

- (a) Is partially dismantled or wrecked; or
- (b) Cannot be self-propelled or moved in the manner in which it originally was intended to move; or
- (c) Is more than five (5) years old and appears to be worth less than one hundred dollars (\$100.00).

Motor vehicle or vehicle: All machines designed or intended to travel over land by self-propulsion or while attached to any self-propelled vehicle.

Nuisance vehicle: A vehicle on public or private property that is determined and declared to be a health or safety hazard, a public nuisance, and unlawful and including a vehicle found to be:

(a) A breeding ground or harbor for mosquitoes, other insects, rats or other pests; or

(b) A point of heavy growth of weeds or other noxious vegetation; or

(c) A point of collection of pools or ponds of water; or

(d) A point of concentration of quantities of gasoline, oil or other flammable or explosive materials as evidenced by odor; or

(e) One which has areas of confinement, such as trunks, hoods, etc., which cannot be operated from inside the area of confinement; or

(f) One so situated or located that there is a danger of it falling or turning over; or

(g) One which is a point of collection of garbage, food waste, animal waste, or any other rotten or putrescible matter of any kind; or

(h) One which has sharp parts thereof which are jagged or contain sharp edges of metal or glass; or

§ 13-93. Administration.

The Town Manager, or his designee, shall be responsible for the administration and enforcement of this Division.

§ 13-94. Abandoned vehicle unlawful; removal authorized.

(a) Upon investigation, proper authorizing officials of the town may determine that a vehicle is an abandoned vehicle and order the vehicle removed.

(b) It shall be unlawful for the registered owner or person entitled to possession of a vehicle to cause or allow such vehicle to be abandoned as the term is defined herein.

§ 13-95. Nuisance vehicle unlawful; removal authorized.

(a) Upon investigation, the proper authorizing official of the town may determine and declare that a vehicle is a health or safety hazard and a nuisance vehicle as defined above, and order the vehicle removed.

(b) It shall be unlawful for the registered owner or person entitled to possession of a motor vehicle, or for the owner, lessee, or occupant of the real property upon which the vehicle is located to leave or allow the vehicle to remain on the property after it has been declared a nuisance vehicle.

§ 13-96. Junked motor vehicle regulated; removal authorized.

(a) Upon investigation, the town planner may order the removal of a junked motor vehicle as defined in this Division after finding in writing that the public health and safety concerns of removing the vehicle outweigh the burdens imposed on the private property owner. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public promoting or enhancing the public health and safety. The following, among other relevant factors, may be considered:

- (1) Protection of property values; or
- (2) Preservation of the character and integrity of the community

Provided, however, no vehicle that is used on a regular basis for business or personal use shall be removed or disposed of pursuant to this subparagraph (a).

(b) It shall be unlawful for the registered owner or person entitled to the possession of a junked motor vehicle, or for the owner, lessee, or occupant of the real property upon which a junked motor vehicle is located to leave or allow the vehicle to remain on the property after the vehicle has been ordered removed.

§ 13-97. Removal of abandoned, nuisance or junked motor vehicles; pre-towing notice requirements; appeals.

(a) Except as set forth in this section, an abandoned, nuisance or junked vehicle that 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 occupant 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 certified mail. Reasonable diligence shall include notification to the registered owner of the vehicle at his last known address according to the latest registration certificate or certificate of title on file with the State Department of Motor Vehicles; notice to the owner of real property as recorded in the Carteret County Registry of Deeds; notice to the owner lessee or occupant as contained in the records of the town. 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 specific 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 specified date, no sooner than seven (7) days after the notice is affixed or mailed, unless the vehicle is moved by the owner or legal possessor prior to that time.

(b) Appeals.

The registered owner or person entitled to possessing a vehicle which has been determined to be an abandoned vehicle on private property, nuisance vehicle or junked motor vehicle who has received a notice pursuant to this section that the vehicle will be removed may appeal the determination. In the case of notice for removal of a junked motor vehicle where the determination has been made that the public health and safety benefits of removing the vehicle outweigh the burdens on the private property owner, in accordance with this section, the registered owner or person entitled to possession of the junked motor vehicle may appeal that determination. Any appeal shall be made within ten (10) days upon receipt of the notice for removal. of the vehicle, All appeals shall be made to the board of commissioners in writing; Appeals held pursuant to this section shall be conducted by the board of commissioners within forty-five (45) days after the receipt of a request for a hearing, and further proceedings to remove the vehicle shall be stayed until the appeal is heard and decided.

§ 13-98. Exceptions to prior notice requirement.

Circumstances justifying the removal of vehicles without prior notice include:

(a) Vehicles abandoned on the public streets.

For vehicles left on the public streets and highways, any member of the Carteret County Sheriff's Department, or the Town Manager, may determine that immediate removal of such vehicles is warranted when they are:

- (1) Obstructing traffic;
- (2) Parking in violation of an ordinance prohibiting or restricting parking;
- (3) Parked in a no-stopping or standing zone;

- (4) Parked in loading zones;
- (5) Parked in bus zones; or
- (6) Parked in a designated tow-away zone.

(b) Nuisance vehicles and abandoned vehicles on private property.

These vehicles may be removed without giving prior notice in those circumstances where the authorizing official finds a special need for prompt action to protect and maintain the public health, safety and welfare. By way of illustration and not of limitation, such circumstances include vehicles blocking or obstructing ingress or egress to businesses and residences, vehicles parked in such a location or manner as to pose a traffic hazard, or vehicles causing damage to public or private property.

(c) Vehicles left on private property.

A vehicle may be removed that has been left on private property without the consent of the owner, occupant or lessee thereof for longer than two (2) hours and the owner, occupant or lessee has complied with this Division, or in those circumstances where there is a finding of a special need for prompt action to eliminate traffic obstructions or to otherwise maintain and protect the public safety and welfare. Such findings shall, in all cases, be entered by the authorized official in the appropriate daily records.

§ 13-99. Removal of vehicles; post-towing notice requirements.

(a) Any abandoned, nuisance or junked vehicle which has been ordered removed may, as directed by the proper authorizing official of 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.
- (b) 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 above, shall also be mailed to the registered owner last known address, unless the notice is waived in writing by the vehicle owner or his agent.
- (c) 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 of the removal of the vehicle.
- (d) 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 him of the information set forth above.

§ 13-100. Right to probable cause hearing before sale or final disposition of vehicle.

After the removal of an abandoned vehicle, nuisance vehicle or junked motor vehicle, the owner or any other person entitled to possession is entitled to a hearing for the purpose of determining if probable cause existed for removing the vehicle. A request for hearing

must be filed in accordance with the provisions of Article 7A of Chapter 20 of the North Carolina General Statutes, as amended.

§ 13-101. Redemption of vehicle during proceedings.

At any stage in the proceedings, including before the probable cause hearing, the owner may obtain possession of the removed vehicle by paying the towing fee, including any storage charges, or by posting a bond for double the amount of such fees and charges to the tow truck operator or towing business having custody of the removed vehicle. Upon regaining possession of a vehicle, the owner or person entitled to the possession of the vehicle shall not allow or engage in further violations of this Division.

§ 13-102. Sale and disposition of unclaimed vehicle.

Any abandoned, nuisance or junked motor vehicle which is not claimed by the owner or other party entitled to possession will be disposed of by the tow truck operator or towing business having custody of the vehicle. Disposition of such vehicle shall be carried out in accordance with Article I of Chapter 44A of the North Carolina General Statutes.

§ 13-103. Conditions on removal of vehicles from private property.

Except as provided in this section, as a general policy, the town will not remove a vehicle from private property if the owner, occupant or lessee of such property could have the vehicle removed under applicable state laws. In no case will a vehicle be removed by the town from private property without a written request of the owner, occupant or lessee, except in those cases where a vehicle is a nuisance vehicle or is a junked motor vehicle which has been ordered removed by the town pursuant to this section.

The town shall require any person requesting the removal of an abandoned, nuisance or junked motor vehicle from private property to indemnify the town against any loss, expense or liability incurred because of the removal, storage, or sale thereof.

§ 13-104. Protection against criminal or civil liability.

Any person who removes a vehicle pursuant to this Division shall not be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to the possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally or negligently inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.

§ 13-105. Exceptions.

Nothing in this Division shall apply to any vehicle:

- (a) Which is located in a bona fide automobile graveyard or as defined in § 136-143, et seq. and § 160A-303.1 and 160A-303.2 of the General Statutes;
- (b) Which is in an enclosed building;
- (c) Which is on the premises of a business enterprise being operated in a lawful place and manner if the vehicle is necessary to the operation of the enterprise; or
- (d) Which is in an appropriate storage place or depository maintained in a lawful place and manner by the town.
- (e) Which is commonly utilized in the normal course of operation of a legally created and recognized Bona Fide Farm as defined within the Town of Cedar Point Zoning Ordinance.

§ 13-106. Unlawful removal of impounded vehicle.

It shall be unlawful for any person to remove or attempt to remove from any storage facility designated by the town any vehicle which has been impounded pursuant to the provisions of this Code unless and until all towing and impoundment fees which are due, or bond in lieu of such fees, have been paid.

(Ordinance adopted 9/23/2003)

§ 13-107 to § 13-110. Reserved.

Division VIII. Heavy Truck Traffic

§ 13-111. Definitions:

- (a) Trucks Prohibited: All trucks and/or trailers of more than two (2) axles are prohibited from traveling on the streets described in § 13-113 of this Division.
- (b) Emergency Situation: Cases where an Emergency Services vehicle is responding to a call with lights flashing and siren activated.
- (c) Delivery: The process of handing over personal property or material for the purpose of surrendering its possession to the recipient.

§ 13-112. Routes to be marked.

The Public Works Commissioner or Town Manager shall cause to be erected and maintained at all junction points and turns where necessary and at all approaches to the parts of streets on which trucks are prohibited, signs of such dimensions as designate by the Cedar Point Traffic Control Ordinance directing truck traffic in accordance to the provisions of this Division.

§ 13-113. Schedule of Streets Prohibited to Truck Traffic.

(a) South Sherwood Avenue - from the intersection of NC Hwy 24 also known as Cedar Point Blvd northward to the eastern entrance of Marsh Harbour Subdivision.

§ 13-114. Exemptions.

There shall be exempted from this Division vehicles responding to Emergency Situations as defined in § 13-111 and vehicles making a delivery to properly which is accessed by traveling over the street or streets designated in § 13-113 of this Division.

§ 13-116. Enforcement Officer.

The Cedar Point Town Manager and/or his/her designee or any duly authorized law enforcement officer shall have the power to cite drivers for violation of this Division.

§ 13-117. Severability.

It is hereby declared to be the intention of the board that the sections, paragraphs, sentences, clauses, and phrases of this Division are severable, and if any phrase, clause, sentence, paragraph, or section of this Division is declared unconstitutional or invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this Division, since the same would have been enacted by the board of commissioners without the incorporation in this Division of any such unconstitutional or invalid phrase, clause, sentence, paragraph, or section.

§ 13-118 to § 13-120. Reserved.

Division IX. Regulation of Golf Carts.

Golf Carts.

§ 13-121. Purpose and Authority.

The purpose of the Division is to regulate the operation of golf carts on any public street, road or highway within the jurisdiction of the Town of Cedar Point, under the authority of North Carolina General Statute 160A-300.6, in order to provide certain limited safety protections relating to golf cart operators, golf cart passengers and other users of streets and highways.

§ 13-122. Statement of Policy.

While the Town finds that regulations governing the operation of golf carts are necessary to address certain public safety issues, the Town notes that golf carts are not designed or manufactured for use on streets and roads and do not possess the same safety features required of motor vehicles. The Town does not advocate or endorse their operation on streets and roads, and specifically advises that the adoption of these regulations does not constitute a determination that the use of golf carts on streets or roads are safe for operators and passengers. Operators and passengers use golf carts at their own risk and peril, are advised to be attentive to motorists, bicyclists, pedestrians, these regulations, the motor vehicle laws of the state and the town and are urged to use appropriate personal safety equipment, including seat belts and child restraints.

§ 13-123. Definitions.

For the purposes of this Division, the following words and phrases shall have the following meanings:

Golf Cart: A “golf cart” is a vehicle designed and manufactured for operation on a golf course for sporting or recreational purposes and is not capable of exceeding speeds of 20 miles per hour.

“Golf carts” do not include “low speed vehicles”, as defined by state law, which are subject to the registration, inspection, and other laws of the state relating to motor vehicles. “Golf carts” also do not include utility vehicles or motorized all –terrain vehicles, which are not eligible for use on public roads or for registration as motor vehicles under state law, or vehicles originally designed as golf carts which have been modified to operate at speeds greater than 20 miles per hour.

(State law referenced GS 20-4.01 (12a).)

Public Streets, Roads and Highways: “Public Streets, roads, and highways” include the following roadways and rights-of-way:

- (a) municipal streets maintained by the Town;
- (b) streets generally open to public use, and
- (c) public vehicular areas, the latter being defined by G.S. 20-219.4.

§ 13-124. Regulations.

Golf carts may be operated on public streets, roads, and highways (defined herein) within the Town of Cedar Point and on property owned or leased by the Town only in accordance with the following requirements and regulations.

(a) Driver’s License Required.

Golf cart operators must have a valid driver’s license, issued in their name and the license must be in their possession when operating a golf cart.

(b) Minimum Operator Age.

Persons operating a golf cart must be at least 16 years of age.

(c) Basic Safety Equipment.

Golf carts must be equipped with a rear view mirror and either

- (1) triangle reflector at least 12 inches high designed to designate a slow moving vehicle; or
- (2) two reflectors, at least 3 inches in diameter, mounted on the rear of the vehicle.

(d) Operating Hours.

Golf carts may be operated on public streets, highways, or roadways only from dawn to dusk unless the golf cart is equipped with the following equipment:

- (1) two operating headlights on each side of the front of the cart, capable of illuminating for a distance of 200 feet and capable of being seen for a distance of 500 feet under normal atmospheric conditions;
- (2) 2 operating tail lights, one on each side of the rear of the cart, capable of being seen from 500 feet under normal atmospheric conditions.

(e) Vehicle Laws Compliance.

Golf cart operators shall observe and comply with all state and municipal laws and regulations relating to the operation of motor vehicles, including those relating to the possession and use of alcoholic beverages and illegal substances. No golf cart containing any open container of alcohol may be operated on public streets, roads or highways.

(f) Operation on Roadway.

Golf carts shall be operated at the far right edge of the roadway and shall yield the right-of way to overtaking motor vehicles at all times.

(g) Passenger Limitations.

The number of persons in a golf cart may not exceed the designed maximum capacity specified by the manufacturer. No persons may – and the operator shall not allow – any person to ride in or on any part of a golf cart not designed to carry passengers, including portions designed for storage or carrying of golf bags or other items. The operator and all occupants shall remain seated while the golf cart is in operation, and no part of an operator or occupant’s body shall extend outside the golf cart while it is in motion, other than necessary hand signals by the operator to indicate turns.

(h) Speed; Proper Operation.

Golf carts shall not be operated at a speed greater than 20 miles per hour, shall not (in any case) be operated at a speed greater than is reasonable and prudent for existing conditions, shall not be operated in a careless or reckless or in a manner that endangers other persons, and shall at all times be operated in compliance with any law enforcement officer controlling traffic.

(i) No Operation on Sidewalks.

Golf carts shall not be operated on sidewalks at any time.

(j) Private Property.

Golf carts shall not be operated on private property, including but not limited to parking lots and other private vehicular areas, without the permission of the owner(s).

(k) Public Vehicular Areas.

If golf carts are operated within public vehicular areas (as defined by state law), they shall comply with any provisions of the state, local law and any posted traffic controls that apply to the operation of motor vehicles within such areas.

(l) Registration.

Golf carts must be properly registered as required by this section and must display, in the lower corner of the windshield on the driver’s side or in the nearest feasible location, a current, valid registration sticker issued by the Town of Cedar Point.

(m) Permitted Operational Locations.

Golf carts may be operated only on streets with a posted speed limit of 25 miles per hour or less.

(n) Crossings.

Golf carts may not travel upon or cross streets, roads, or highways with a speed limit greater than 35 miles per hour.

(n) Parking.

Golf carts may be parked in the same manner and in the same places designated for parking of motor vehicles.

(o) Special Situations.

In special circumstances such as emergency situation, special events or other unusual circumstances the Town Manager or his designee may temporarily authorize, direct, allow or prohibit the operation of golf carts in a manner different from the normal regulations of this Division.

(p) Handicapped Parking.

Golf carts may park in handicapped parking spaces only if the operation or at least one passenger has a valid handicapped parking authorization issued by the state.

§ 13-125. Areas Prohibited for Use.

(a) The use or operation of golf carts along all streets, roads, and highways with speed limits higher than 25 miles per hour except for those road crossings specifically permitted is prohibited.

(b) The use or operation of golf carts on the following street(s), roads, or highways within the Town of Cedar Point is specifically prohibited:

- (1) NC Highway 24/Cedar Point Blvd.

§ 13-126. Registration.

(a) Applications.

All golf cart owners must annually complete a registration application in a proper manner, pay any applicable application and/or registration fees, provide the required proof of liability insurance and submit their golf carts for inspection by the Town Manager or his/her designee. The registration application shall also include signed confirmation that the applicant has read, understands and agrees to comply with town regulations regarding the operation of golf carts. Upon a determination that the application and the cart meet the town's requirements, the Town Clerk shall issue a registration sticker to the owner, accompanied by a copy of the requirements and regulations of this § .

(b) Insurance and Liability.

All golf cart owners shall provide proof of ownership, required proof of liability insurance, and a waiver of liability (in terms prepared by the Town) releasing the Town of Cedar Point from any and all liability that may arise from the operation of the golf cart within the jurisdiction of the Town of Cedar Point. The required liability insurance coverage shall be in an amount not less than required by North Carolina law for motor vehicles operated on public highways.

(c) Fees.

Fees for golf cart applications, inspections, and/or registrations shall be as determined annually by the Board of Commissioners. Such fees shall be non-refundable and shall not be pro-rated for partial years.

(d) Registration Period.

Golf cart registrations shall be valid for no more than 1 year and shall expire on June 30 of each year. Registrations may be issued at any time during the year but all registrations shall expire on the following June 30.

§ 13-127. Enforcement.

This Division shall be enforced by, and violators subject to, any one, all or a combination of the following:

(a) Infraction.

Any act constituting a violation of this ordinance or failure to comply with any of its requirements shall constitute an infraction under the provisions of Chapter 20 and/or Chapter 14 of the North Carolina General Statutes unless such violation is also a violation of the "rules of the road" applicable to motor vehicles under the North Carolina General Statutes in which case the greatest penalty will apply.

(b) Civil Penalties.

Any act constituting a violation of this Division shall subject the offender to a civil penalty in an amount as set forth in the Town's Fee Schedule, plus any attorney fees, court costs, or other collection expenses incurred by the Town. If the offender fails to pay the penalty within 30 days of receiving written notice of the violation, the amount owed may be recovered by the Town in a civil action in the nature of debt. In addition, failure to pay a civil penalty shall constitute grounds for revocation of golf cart registration. *(Amended April 28, 2020)*

(c) Registration Revocation.

Three violations of this Division within any 12 month period shall constitute cause for revocation of a golf cart registration for a period of 1 year.

(d) Continuing Violations.

Each day that any of the provisions of this Division is violated shall constitute a separate offense.

§ 13-128. Severability.

If any section, subsection, sentence or term of this Division or any application thereof is adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such adjudication shall not affect the validity of any remaining portion of the Division or its application to other persons or circumstances.

(Ordinance adopted 10/26/2010)

Chapter 14

Utilities

Division I. Use of Fire Hydrants.

§ 14-1. Definitions.

(a) Fire Hydrant shall be defined as discharge pipe with a valve by which water may be drawn from the main waterworks which is used chiefly for providing a source of water for fighting fire.

§ 14-2. Restricted Use of Fire Hydrants.

It shall be unlawful for any person, firm, or corporation to connect to and use any of the fire hydrants of the West Carteret Water Corporation for any purpose other than firefighting and emergency purposes. Any such use except as authorized by the West Carteret Water Corporation shall be unlawful, and a violation of the same shall be punishable as a misdemeanor in accordance with NCGS § 14-4, by fine of \$50.00 per occurrence, thirty (30) days in jail, or both in the discretion of the Court.

§ 14-3. Exception for Emergency and Fire Fighting Use.

Any use of the fire hydrants by fire departments shall require the issuance of a written report by the officer in charge detailing the date, time and estimated gallons of usage to the West Carteret Water Corporation, to include the reasons and justifications for such use. Such report shall be filed with the Town of Cedar Point and the West Carteret Water Corporation within seven (7) days following usage.

(Ordinance, 4/20/1999)

Chapter 15

Parades and Demonstrations

§ 15-1 Definitions.

For the purpose of this Chapter, the following terms shall have the definitions ascribed to them in this section:

(a) “*Block*” shall mean that portion of any street lying between its intersections with other streets.

(b) “*Group demonstration*” shall mean any assembly together or concert of action between or among two (2) or more persons for the purpose of protesting any matter or of making known any position or promotion of such persons, or of or on behalf of any organization or class of persons, or for the purpose of attracting attention to such assembly.

(c) “*Parade*” shall mean any assemblage of two (2) or more persons participating in, or operating any vehicle in, any march, ceremony, show, or exhibition designed to gain the attention of non-participants of any kind in or upon the public streets, sidewalks, alleys, parks, or other public grounds or places.

(d) “*Picket line*” shall mean any two (2) or more persons formed together for the purpose of making known any position or promotion of such persons or of or on behalf of any organization or class of persons.

§ 15-2 Permit Required for Parade.

It shall be unlawful for any person to organize, conduct or participate in any parade in or upon any street, sidewalk, alley or other public place within the town unless a permit there for has been issued by the town in accordance with the provisions of this Division.

§ 15-3 Requirements and Issuance of Parade Permit.

The Town Manager or his designee shall issue permits as required by this Division, and in the issuance thereof he shall:

(1) Require a written application for permit to be filed not less than seventy-two (72) hours in advance of such parade, which application shall be on a form prescribed by the Town Manager, and which application shall be signed by the applicant; and shall specify the time, place, route, and duration of any such parade;

(2) Refuse to issue such permits for parades to commence before 9:00 a.m.;

(3) Refuse to issue such permits for parades to commence or continue after 7:00 p.m.;

(4) Refuse to issue such permits for parades that will continue for a time period longer than three (3) hours;

(5) Refuse to issue such permits for parades to be held at the same time and place as those designated in a permit issued pursuant to a written application previously received by the chief of police or his designee;

(6) Refuse to issue the permit when the activity or purpose stated in the application would violate any provision of this Code or other ordinance of the town or any statute of the state, or when the activity or purpose would constitute a clear and present danger to the public health or safety; and

(7) Require that the application for a permit shall specify and the permit shall designate the person or persons in charge of the activity.

§ 15-4 Revocation of Parade Permit.

The Town Manager shall revoke any permit granted for a parade for any of the following causes:

- (a) The violation by any participant of § 15-5 hereof;
- (b) The failure to comply with the terms and conditions of the permit.

§ 15-5 Certain Activities Prohibited.

Except for law enforcement officers, members of the United States military, school honor guards, school color guards, and historical reenactors, the carrying on or about the person of any firearms, or any weapon or article used as a weapon, including but not being limited to blackjacks and nightsticks, when performed or undertaken in conjunction with or as a part of any parade, picket line, or group demonstration, is prohibited and declared unlawful.

§ 15-6 Interference Prohibited.

No person shall hamper, obstruct, or interfere with any parade or any picket line or group demonstration being conducted under authority of a permit duly issued by the Town Manager.

§ 15-7 Regulations Applicable to Picketing and Group Demonstrations.

Picket lines, picketing and group demonstrations shall be subject to the following regulations:

- (a) Picketing and group demonstrations may be conducted only on the sidewalks reserved for pedestrian movement, and may not be conducted on the portion of a street used primarily for vehicular traffic;
- (b) Pickets and group demonstrators may carry written or printed placards or signs not exceeding two (2) feet in width and two (2) feet in length promoting the objective for which the picketing is done;

(c) Pickets must march in single file and not abreast except in passing one another; and

(d) If pickets or group demonstrators promoting different objectives desire to use the same sidewalk for picketing, the Town Manager shall allot time to each group of pickets or group demonstrators for the use of such sidewalk on an equitable basis.

(e) Pickets and group demonstrations may not commence before 7:00 a.m.;

(f) Pickets and group demonstrations may not commence or continue after 7:00 p.m.;

§ 15-8 Exceptions.

The provisions of this Chapter shall not apply to:

- (a) Funeral processions; or
- (b) The activities of any governmental agency acting within the scope of its authority.

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