



KANNAPOLIS CITY COUNCIL

MEETING AGENDA
Kannapolis City Hall
401 Laureate Way, Kannapolis NC
April 8, 2019
6:00 PM

Please turn off cell phones or place on silent mode.

CALL TO ORDER AND WELCOME

MOMENT OF SILENT PRAYER AND PLEDGE OF ALLEGIANCE

ADOPTION OF AGENDA - Motion to Adopt Agenda or make revisions

PROCLAMATIONS

1. Public Safety Communications Week April 14-20

CONSENT AGENDA - Motion to Adopt Consent Agenda or make revisions

1. Consider amendments to Kannapolis Code of Ordinances (Walter M. Safrit, II, City Attorney)

BUSINESS AGENDA

- A. North Carolina Department of Transportation Project Updates (Wilmer Melton, III, Director of Public Works)
- B. Capital Project Ordinance and Reimbursement Resolution for 2019 Revenue Bond Projects (Eric Davis, Finance Director)

CITY MANAGER REPORT

CITY COUNCIL COMMENTS

CLOSED SESSION

GS. 143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney client privilege and G.S. 143.318.11 (a) (4) for discussing matters relating to the location or expansion of industries or businesses in the area and G.S. 143-318.11 (a) (6) for the purpose of discussing personnel matters (Mayor Pro tem Haas)

MOTION TO ADJOURN MEETING

UPCOMING SCHEDULE

April 22, 2019
May 13, 2019

ADA Notice and Hearing Impaired Provisions

In accordance with the requirements of Title II of the Americans with Disabilities Act of 1990 ("ADA"), anyone who requires auxiliary aid or service for effective communication, or a modification of policies or procedures to participate in a program, service or activity of the City of Kannapolis, should contact the office of Tina H. Cline, Human Resource Director by phone at 704-920-4302 or email at tcline@kannapolisnc.gov as soon as possible, but no later than forty-eight (48) hours before the scheduled event.



Office of the Mayor
KANNAPOLIS, NORTH CAROLINA
P R O C L A M A T I O N

National Public Safety Telecommunicators Week
April 14 – 20, 2019

WHEREAS, emergencies can occur at any time requiring the prompt response of law enforcement, firefighters and paramedics; and is critical to the protection of life and preservation of property; and

WHEREAS, public safety dispatchers are the single vital link for our law enforcement and fire personnel by monitoring their activities by radio and other means of telecommunication equipment, providing them information and ensuring their safety; and

WHEREAS, professional Public Safety Telecommunicators are more than a calm and reassuring voice at the other end of the phone, they are highly trained individuals, prepared and ready to ensure the safety of our police officers, firefighters and EMS personnel who dependent upon the quality and accuracy of information obtained from citizens that call the Kannapolis E-911 Communications Center; and

WHEREAS, each Public Safety Telecommunicator exhibits compassion, understanding and professionalism during the performance of their job. We owe a great debt to the men and women for the exceptional job they do each day in the field of emergency communications.

NOW, THEREFORE IT BE RESOLVED that the Mayor and City Council of the City of Kannapolis proclaim the week of April 14 – 20, 2019 as:

“TELECOMMUNICATOR WEEK”

in the City of Kannapolis and ask the citizens of Kannapolis to take time to acknowledge these dedicated telecommunicators and the great work that these men and women do every day. Between the thin blue line and the thin red line, lies the thinnest gold line. This gold line represents those who rarely are seen, but mostly heard. Dispatchers are the golden glue that holds it all together.



IN WITNESS THEREFORE, I have set my hand and caused the Great Seal of the City of Kannapolis to be affixed this 8th day of April, 2019

Milton D. Hinnant



**City of Kannapolis
City Council Meeting
April 8, 2019
Staff Report**

TO: Mayor and City Council
FROM: Walter M. Safrit, II City Attorney
TITLE Amendments to Kannapolis Code of Ordinances

A. Action Requested by City Council

Motion to approve an Ordinance amending the Kannapolis Code of Ordinances.

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

Last year I submitted the City Code of Ordinances to the Municipal Code Corporation for a legal review of the Code to determine continued compliance and necessary amendments to conform it to changes in State law due to recent legislation. In their response letter the City Code Department of Municipal Code Corporation which reviewed our Code stated "Frankly, the code is in unusually fine shape, though as you are well aware there are a few dated or obsolete provisions the town should formally repeal and have removed, and there are a smattering of code sections which could stand some minor revisions."

The Code Department offered several changes which have been incorporated into the proposed Ordinance pending before Council. Several other amendments are submitted for consideration in addition to those offered by our advisors. The proposed ordinance was also provided to all City Department Directors for any comments or requests they wished to be included. The first reading was held at the March 25, 2019 City Council Meeting.

D. Fiscal Considerations

None

E. Policy Issues

None

F. Legal Issues

Continual review of revision of the City's Code of Ordinances is essential to maintain lawful performance of city activities.

G. Alternative Courses of Action and Recommendation

1. **Motion to approve an Ordinance amending the Code of the City of Kannapolis (Recommended).**
2. Do not approve the Ordinance amending the Code of Ordinances.
3. Table to a future meeting.

ATTACHMENTS:

File Name

📎 Ordinance_(Code_of_Ordinances_Amendment).pdf

CITY OF KANNAPOLIS ORDINANCE

WHEREAS, the Kannapolis City Code of Ordinances (the “Code”) was first adopted on June 26, 1986; and

WHEREAS, although the Code has been regularly amended as necessary or required by law certain provisions of the Kannapolis City Code are irrelevant, incorrect or outdated; and

WHEREAS, it is deemed prudent and necessary to amend certain provisions to ensure accuracy of the Code.

NOW, THEREFORE BE IT ORDAINED by the City Council for the City of Kannapolis that the following ordinance and code amendments are hereby adopted.

1. Chapter 2. Administration

(a) Sec. 2-1 is hereby amended as follows:

- “(l) Engineering
- (m) Economic and Community Development
- (n) Communications”

(b) Section 2-3 (a) is hereby amended as follows:

Correct typographical error “establish”

2. Chapter 3. Animal Control

(a) Sec. 3-1 is hereby amended by deleting the phrase
“and as may be amended,”

(b) Sec. 3-3 is hereby amended by deleting the phrase
“and as may be amended,”

(c) Sec. 3-5 is hereby amended as follows:

- (i) Add a phrase at the end of the definition of “Animal” stating “but does not include Farm Animals.”
- (ii) Add the following definition “Farm Animal. The term “farm animal” shall be defined in G.S. 160A-203.1.”
- (iii) Add the following definition “Standards of Care for Farm Animals. This phrase includes the following: the construction, repair, or improvement of farm animal shelter or housing; restrictions on the types of feed or medicines that may be administered to farm animals; and, exercise and social interaction requirements.”

(d) New Sec. 3-6(d) is added as follows:

“This Section does not relate to or otherwise address cruelty farm animals.”

3. Chapter 5. Fire Prevention.

(a) Chapter 5 is hereby deleted in its entirety and replaced as follows:

Chapter 5
FIRE PREVENTION AND PROTECTION

ARTICLE I. - IN GENERAL

Sec. 5-1. - Primary fire limits established.

(a) The primary fire limits for the city are hereby established and defined as follows:

- (1) Beginning at the point of intersection, centerlines, Main Street and First Street, west on centerline of West First Street to the point of intersection, centerline, Oak Avenue; thence south on centerline of Oak Avenue to the point of intersection, centerline, West "A" Street; thence west on centerline of West "A" Street to the point of intersection, centerline, Chestnut Avenue; thence south on centerline of Chestnut Avenue to the point of intersection, centerline, South Loop Road; thence south on centerline of South Loop Road to the point of intersection, centerline, Vance Street; thence east on centerline of Vance Street to the point of intersection, centerline, South Main Street; thence north on centerline South Main Street to the point of intersection, centerline, "B" Street; thence east on centerline of "B" Street to the point of intersection, centerline, Southern Avenue; thence north on centerline of Southern Avenue to a point six hundred (600) feet north of the intersection of East First Street and Southern Avenue; thence west to centerline of North Main Street; thence south on centerline of North Main Street to the point of beginning.

(Ord. of 6-26-89, § 1)

Editor's note— Section 1 of an ordinance adopted June 26, 1989, being not specifically amendatory of this Code, has been codified as § 5-1 at the discretion of the editor.

Sec. 5-2. - Fire use service fees and charges.

- (a) A schedule of fire use service fees and charges for development/construction fees, annual inspection fees, stand-by (nonemergency) fees and such other fees and charges and the amount of such fees and charges relating to fire services shall be established by the city council from time to time.
- (b) Payment of fees and charges for fire use services shall be made in such amounts, at such times and in accordance with the schedule of fire use service fees and charges.

(Ord. No. 2007-24, § 1, 6-25-07)

Sec. 5-3. – Disposal of hot ashes.

No person shall empty hot ashes on or near any sweepings, shavings or flammable material of any kind within the city limits.

Sec. 5-4. - Fireworks.

- (a) Except as otherwise provided in this section, it shall be unlawful for any person to possess, store, offer for sale or sell at retail, any kind or type of fireworks of any description within the corporate limits of the city. This subsection shall not apply to fireworks exempted under G.S. 14-414.
- (b) Except as otherwise provided in this section, it shall be unlawful for any person to discharge in any manner any kind or type of fireworks of any description within the corporate limits of the city. This subsection shall not apply to fireworks exempted under G.S. 14-414 or to a public display of fireworks as permitted by the North Carolina Fire Prevention Code and G.S. ch. 58, art. 82A.
- (c) Any person seeking to conduct a public display of fireworks shall obtain a permit and submit a plan in writing at least 15 working days prior to the display to the fire department with the following information:
 - (1) The name of the person, group, or organization responsible for the display;
 - (2) All state pyrotechnic display operator's license card/certificates of the individuals to discharge pyrotechnics;
 - (3) The date and time of the display;
 - (4) The location of the display;
 - (5) The duration of the display;
 - (6) A narrative description of the display;
 - (7) Copy of liability insurance
 - (8) A site plan showing the following:
 - a. The location of the audience;
 - b. The area affected by the display;
 - c. All buildings, structures and parking lots affected by the display;
 - d. Means of egress;
 - e. Fire protection features and locations;
 - f. PPE to be worn by operators during initiation or electronic firing controls to be utilized by operators during the display.
- (d) The use of fireworks, pyrotechnic or flame effect devices shall meet the following codes and standards:
 - (1) NFPA 1124—Code for manufacturing, transport, storage and retail sales of pyrotechnic articles.
 - (2) NFPA 1123—Code for fireworks display.
 - (3) NFPA 1126—Standard for the use of pyrotechnics before a proximate audience.
 - (4) North Carolina State Building Code—Fire Prevention Code Chapter 56.
 - (5) North Carolina General Statute Chapter 58, Article 82A.
- (e) Fireworks found within the city limits except for those exempted by G.S. 14-414 are hereby declared to be contraband and subject to seizure by any member of the Risk Reduction Section of the fire department or a law enforcement officer unless possessed by a permittee for a public display of fireworks as permitted by the state fire prevention code.
- (f) Any person who shall violate the provisions of subsections (a) or (b) shall be guilty of a misdemeanor and shall be punishable by imprisonment up to 30 days or a fine of \$500.00, or both. Violators may be subject to a \$500.00 civil penalty to be recovered in the nature of debt.

Sec. 5-5 – Key/Lock boxes.

- (a) Required.
 - (1) All commercial enterprises or industries in the city which use, store or manufacture on-site hazardous materials that must be reported under state right-to-know laws, G.S. 95-173 et seq., or under Title III of the Federal Superfund Amendments and Reauthorization Act and the

regulations promulgated thereunder, must have an approved on-site hazardous materials data storage box at each facility where hazardous materials may be found.

- (2) All facilities which have a system which transmits off-site alarms for fire detection or suppression systems must have an approved on-site lock box which contains keys to provide fire department access in an emergency or alarm activation.
 - (3) Keys in boxes must be kept up-to-date. When locks are changed the Risk Reduction Section must be notified and new keys provided for the box.
- (b) Contents, types and location of data storage box.
- (1) This data storage box may contain keys providing access to secured portions of the facility. The box shall contain current specific information to assist fire departments and hazardous materials teams responding to emergencies at the facility including, but not limited to, facility maps or plans showing the type and location of hazardous materials, Tier II forms, lists of chemicals with CAS numbers, chemical safety data sheets, telephone numbers for facility employees and other persons to be contacted in case of such emergencies.
 - (2) All information requested on the fire department data storage sheets must be provided on the forms provided by the fire department, or in a substantially similar format, and must be placed in the data storage box. Such information must be updated continuously to ensure its accuracy.
 - (3) The data storage box itself shall be of the type designated and approved by the fire department and shall be located at or near the primary entrance to the facility and installed in accordance with directives of the chief of the fire department.
- (c) *Violations; enforcement.*
- (1) Violations of this section shall be a misdemeanor punishable by a \$500.00 fine as provided under G.S. 160A-175 and 14-4. Violators may be subject to a \$500.00 civil penalty to be recovered in the nature of a debt. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175(g).
 - (2) The municipality may also secure injunctive and other appropriate equitable remedies to ensure compliance with this chapter, as provided by G.S. 160A-175.
 - (3) Enforcement actions may be initiated by the inspectors of the fire department, division chief or chief of the fire department.
- (d) *Exceptions.*
- (1) Whereas the city recognizes that certain commercial enterprises maintain 24-hour security and emergency responses, such enterprises may propose measures which will provide immediate access to vital information on a 24-hour basis, 365 days per year. This information must meet the criterion of information stored in the lock boxes and be available to initial arriving emergency response vehicles.
 - (2) The duplicate copies of the proposal must be sent to the fire department. Each proposal must specify the means by which the commercial enterprise will provide services equal to that of the lock box program.
 - (3) All proposals will be reviewed on an individual basis. Proposals must be renewed on a yearly basis.

Sec. 5-6. Open burning; exceptions.

- (a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Open burning means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through a chimney, or a permitted air pollution control device.

Pile means a quantity of objects or materials stacked or thrown together in a heap, three feet (914 millimeters) or less in diameter and two feet (610 millimeters) or less in height.

Stack means a usually conical shaped pile of debris or material, three feet (914 millimeters) or less in diameter and two feet (610 millimeters) or less in height.

(b) *Prohibited acts.* No person shall ignite, cause to be ignited, permit to be ignited, allow or maintain, kindle or maintain within the corporate limits of the city any open burning fire.

(c) *Exceptions.* Exceptions shall include only the following:

(1) Training fires set for the purpose of instruction and training of public and industrial employees in the methods of firefighting. Prior to commencement of open burning, the fire department shall be notified. All open burning for this purpose shall meet the requirements of all state regulations.

(2) Open fires for cooking, heating, religious and ceremonial fires shall be allowed when such fire is not composed, in whole or substantial part, of leaves or yard waste, and the location of such fire, and the items necessary for its containment, and provided that the emission of smoke and fumes do not irritate, annoy or constitute a nuisance to others. Such fires shall be conducted in accordance with the North Carolina Fire Prevention Code, be contained in a campfire pit meeting the requirements of pile and/or stack, confined to a container no larger than a 55- gallon drum or other device designed for such use. Fuels for such fires must be naturally cut wood, charcoal, propane or natural gas; no construction materials or building materials shall be permitted.

(3) Bonfires, public or private, shall require a permit and are subject to approval of the fire department. Approval will be granted on the sole discretion of the fire department based upon:

- a. The proximity of the proposed fire to dwellings, trees, woods and other structures.
- b. Facilities available for fire management.
- c. Atmospheric conditions.
- d. Type of material to be burnt: must be naturally cut wood, three inches in diameter or smaller; no construction materials or building materials.
- e. The bonfire shall be no more than five feet by five feet by five feet in dimension and shall burn no longer than three hours.
- f. Any other consideration judged by the fire department to be required to ensure safe burning.
- g. Such fires shall be maintained in accordance with the North Carolina Fire Prevention Code.

Failure to maintain bonfires in accordance with this section shall constitute fire extinguishment and revocation of the permit.

(4) Fires set for disposing of waste propellants, explosives or pyrotechnics, including associated contaminated wastes. The fires must be necessary and the waste not able to be disposed of by any other means than burning. No materials shall be imported from off-site for disposal. A permit must be obtained for fires used for this purpose.

(5) On the sole discretion of the fire department when there exists an extreme or emergency circumstance which lacks any other reasonable means of disposing of items which need to be disposed of, and not addressed in this section, the fire department may issue a permit to burn.

These fires shall be limited to the disposal of material generated during a natural disaster, such as a tornado, hurricane or flood.

(6) Fires set as part of commercial film or video production activities for motion pictures and television or fires set as part of a planned civic event designed to educate or otherwise benefit the public.

a. The use of fireworks, pyrotechnic or flame effect devices used in conjunction with or to initiate such fires shall meet the following codes and standards:

1. NFPA 1124—Code for manufacturing, transport, storage and retail sales of pyrotechnic articles.
2. NFPA 1123—Code for fireworks display.
3. NFPA 1126—Standard for the use of pyrotechnics before a proximate audience.
4. North Carolina State Building Fire Prevention Code Chapter 56.
5. North Carolina General Statute Chapter 58 Article 82A—Pyrotechnics Training and Permitting.

b. Any person seeking to conduct a fire for such reasons shall obtain a permit and submit a plan in writing at least 15 working days prior to the burn to the fire department with the following information:

1. The name of the person, group, or organization responsible for the production;
2. If applicable, state pyrotechnic display operator's license card/certificate of the individuals to discharge pyrotechnics;
3. The date and time of the production;
4. The location of the production;
5. The duration of the burn;
6. A narrative description of the burn;
7. A site plan showing the following:
 - i. The location of the audience;
 - ii. The area affected by the burn;
 - iii. Means of egress;
 - iv. Fire protection features and locations.
8. PPE to be worn by operators during initiation or electronic firing controls to be utilized by operators during the display.

(d) Violations and enforcement.

(1) The fire official shall have the authority to summarily abate any condition that is in violation of this section and that presents an immediate fire hazard to life or property.

(2) Any open burning in violation of this section shall be extinguished by the responsible party or the fire department.

(3) All costs incurred by the city for enforcement of this section will be the responsibility of the party in violation of this section and will be added to the fine.

- (4) A civil fine shall be issued to any person or company violating the provisions of this section. The civil fine for residential violations shall be \$50.00 and \$100.00 for any repeat violation. The civil fine for commercial violations of this section shall be \$500.00 per stack or pile and \$1,000.00 per stack or pile for any repeat violation by the same person or company.
- (5) Violations of this section shall be a misdemeanor as provided under G.S. 160A-175 and 14-4. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175(g).

Sec. 5-7. False Alarms

- (a) *False fire alarms defined.* A fire alarm means the activation of a fire alarm system through mechanical or electronic failure, malfunction, improper installation, or the intentional acts or negligence of the alarm user, his/her employees or agents, to summon fire department personnel, unless fire department response was cancelled by the alarm company (designated by the alarm user) prior to fire department personnel arrival on the scene. An alarm is false within the meaning of this chapter when, upon inspection by the fire department, evidence indicates that no fire, smoke or other condition exists in or on the premises which would have activated a properly functioning fire alarm system. Notwithstanding the foregoing, a false alarm shall not include an alarm which can reasonably be determined by the investigating officer to have been caused or activated by a violent condition of nature including but not limited to flood, hurricane, lightning, blizzard or other similar condition outside the alarm user's control. In addition, an alarm activated during an alarm system testing procedure shall not be considered a false alarm if the alarm user first notifies the fire department and notifies and receives permission from the user's alarm company, or designee, to test the system. This section shall not apply to burglar alarms or other types of alarms to which fire department response is neither required nor customary.
- (b) *Civil penalty for false alarms.* No civil penalty shall be incurred for the first or second false alarms occurring during any rolling 90-day period. The third occurrence of a false alarm in any 90-day rolling period shall result in a civil penalty of \$250.00 or as specified in the then-current fees, rates and charges schedule adopted as part of the city annual operating budget. Each additional false alarm, in excess of three, occurring in the same rolling 90-day period shall result in additional civil penalties in accordance with this section. For this section, a "rolling" time period shall begin on the date of the first event and end 90 days from that date if no further events occur. If additional events occur prior to the date that is 90 days from the date of the first event, the 90 days may "roll" forward until 90 days pass without the occurrence of an event.
- (c) *Duties of the alarm user, his/her employees or agents:*
 - (1) Users shall maintain the alarm system and related premises in a manner that will reduce or eliminate false alarms.
 - (2) Users shall respond to or cause a representative to respond to the alarm system's location within 30 minutes of being notified by the city fire department and/or city emergency communications to deactivate an alarm system; provide right of entry to the premises; provide alternative security for the premises; and/or take control of the premises upon fire department release of the premises and departure.
 - (3) Users shall not manually activate an alarm system for any reason other than for the systems intended purposes; to perform an emergency evacuation drill (fire drill) as required the North Carolina Fire Code; or to perform routine maintenance as prescribed by alarm system provider, and only after notice to and permission for such testing from the alarm company and the city fire department.
 - (4) Failure to follow the requirements of this section shall result in a fine of \$250.00 per occurrence. This fine shall be assessed in addition to any other fines assessed under other

sections of this chapter. In addition to this fine, neither the responding officer, nor the city fire department shall have, nor assume any responsibility for securing, guarding or otherwise protecting any real or personal property that may have become exposed during the event resulting in the alarm.

Secs. 5-8—5-20. - Reserved.

ARTICLE II. – FIRE PREVENTION CODE

Sec. 5-21. Standard Fire Prevention Code adopted.

- (a) There is hereby adopted by reference the North Carolina Fire Code and all appendices, amendments and revisions. The provisions of such code shall be controlling within the limits of the city.
- (b) Within said code, when reference is made to duties of the fire official, it shall be deemed to be the fire chief of the city or his duly appointed representative.
- (c) The permits required by the Risk Reduction Division shall be listed on the fire department inspection fee schedule

Secs. 5-22. Periodic Inspections.

- (a) Subject to the limitations and conditions stated in the state building code, it shall be the duty of the fire chief or designee to inspect or cause to be inspected all buildings, structures and premises within the city for the purposes of ascertaining and causing to be corrected any condition which may cause fire or explosion, endanger life from fire or explosion, or any violations of the provisions of the code, or any other ordinances pertaining to fire or explosion hazards in accordance with the minimum periodic inspection schedule for occupancies approved by the state building code council, or upon complaint by interested parties or if there is given probable cause for such inspection.
- (b) Fire inspections shall be conducted on all occupancies, except those exempted in Section 102.13 of the North Carolina Fire Code, at a frequency not less than the schedule listed in Section 106 of the North Carolina Fire Code.

Nothing in this section shall prevent inspection from being conducted at more frequent intervals than listed in the schedule.

Sec. 5-23. - Penalties.

- (a) *Criminal penalties.* Any person who shall violate or fail to comply with any provisions of this Code shall be guilty of a Class 3 misdemeanor and shall be fined not more than \$50.00. Each 30- day that such violation continues shall constitute a separate and distinct criminal offense.
- (b) *Civil penalties.* In addition to or in lieu of criminal penalties set forth in subsection (a), violation of or failure to comply with the provisions of this Code shall, at the election of the city, subject the offender to a civil penalty in the amount of \$500.00 or as specified in the then-current fees, rates and charges schedule adopted as part of the city annual operating budget upon the issuance of a citation for such violation as provided in this article. Each day's continuing violation shall constitute a separate offense as provided by G.S. 160A-175(g).
- (c) *Equitable relief.* In addition to the criminal and civil penalties set out in subsections (a) and (b), any provision of this Code may be enforced by an appropriate equitable remedy, including but not limited to injunctive relief or order of abatement, issuing from a court of competent jurisdiction and with the provisions of the state general statutes.

Sec. 5-24. - Notice of violation; methods of service.

(a) Notice of violation.

- (a) Fire inspectors of the fire marshal's office shall issue notices of violation when such fire inspectors have reasonable cause to believe that any person has violated any provision of this Code.
- (b) The notice of violation shall include specific factual information setting out the nature of the violation, the code section violated, the date of the violation and an order to immediately cease the violation or, if the violation is in the nature of an infraction for which an order of abatement would be appropriate in a civil proceeding, stating a reasonable period of time in which the violation must be abated. The notice of violation shall specify that failure to comply with the code shall incur a civil penalty. The notice shall include appropriate information regarding how to schedule a hearing or other appropriate procedure to appeal the violation.
- (c) Any other provisions of this Code notwithstanding, the following types of violations are hereby declared to constitute an imminent threat to the health, safety and general welfare of the inhabitants of the city and may result in the immediate citation for civil penalties without the necessity of any prior notice of the violation:
 - a. Violation of any provision of Chapter 10 of the Fire Code provisions of the North Carolina Building Code;
 - b. Any violation related to removal, tampering with or otherwise disturbing any fire hydrant, fire detection and alarm system, fire suppression system, or other fire appliance required by this Code except for the purpose of extinguishing fire, training purposes, recharging or making necessary repairs, or when approved by the code official;
 - c. Any overcrowding violations;
 - d. Any assault on a city official;
 - e. Any violation of the North Carolina Fire and Building Codes that in the opinion of the fire official constitutes an imminent fire or life safety hazard to the inhabitants of the city.
- (d) Any second violation of the same section of this Code or of the North Carolina Fire Code portion of the North Carolina International Building Code shall result in an immediate citation for civil penalties without the necessity of any prior notice of the violation.

(b) Methods of service.

- (1) The service of notices, citations, orders or any other document related to violations of the code shall be made in accordance with the requirements set forth in Section 1-14.
- (2) When buildings or other premises are occupied by one other than the owner under a lease or other agreement, the orders or notices issued to correct violations of the code shall apply to and shall be served upon the occupant; provided, however, that the record owner shall be served with a copy of the document served upon the tenant. Where the order or notice requires corrective actions that do not involve additions or changes to the premises themselves which may become part of the real property of the owner, then, failure to deliver an order or notice to the owner, if other than the occupant, shall not invalidate such order or notice. Where the order or notices require the making of additions to or changes in the premises themselves which may become part of the real property of the owner, then, in such cases, the orders or notices shall be issued to the owner of the premises or real property and may also be issued to the occupant.
- (c) If the violator does not pay the penalty within the time frame set forth in the notice of violation, a civil citation may be issued to the violator or person responsible assessing a civil penalty in accordance with subsection (b). The civil citation shall meet the requirements set forth in Section 1-14.

- (d) If the violation is not corrected and/or the civil penalty is not paid within the time allowed, the fire chief may proceed with any of the remedies listed above including, but not limited to, criminal charges against the violator.

Sec. 2.25. - Permits.

- (a) It shall be the duty of the Risk Reduction Division to evaluate applications and issue, if approved, all special use permits as listed on the fire inspection fee schedule. This schedule may be revised upon approval of the city council. Applications for special use permits shall be made on forms provided by the city.
- (b) Fees for inspections, special use permits, and other fire department services shall be set out in a fee schedule. Printed schedules of the fees shall be available to the public at the Risk Reduction Division, city website and the city clerk's office. A billing statement for charges listed on the schedule may be sent to the owner/occupant by the city finance department.
- (c) Applications for permits required pursuant to the North Carolina Fire Code shall be made to the Risk Reduction Division on forms provided by the city. The applicable permit fee as established by the city shall accompany all applications. The required permit fees shall be set out in a fee schedule. Printed schedules of the permit fees shall be available to the public at the Risk Reduction Division office, city website and city clerk's office. The City Manager is authorized to waive the permit fee for governmental, religious or charitable organizations.
- (d) The following optional permits as listed in Section 105.6 of the North Carolina Fire Code are adopted as mandatory within the city:

Hazardous materials 105.6.20, and 105.6.21

Hazardous materials facilities 105.6.21 and 105.6.22.

Secs. 5-26—5-29. - Reserved.

Sec. 5-30. - Water supply—General.

- (a) *Required fire flow.* Fire flow requirements for new occupancies and additions shall be determined by utilizing the North Carolina Fire Code Appendix B.
- (b) *Fire hydrants.* Fire hydrant coverage shall not exceed the limits established in Chapter 5 and Appendix C of the North Carolina Fire Code to the most remote point of any building covered by the state fire prevention code. The distance shall be measured along an approved path of travel for the fire apparatus.
- (c) *Modification of distance requirements.* Where warranted, the fire official shall have the authority to modify the distance requirements in subsection (b) based on the nature, construction and square footage of the occupancy.

Sec. 5-31. - Code requirements for fire service water mains, fire hydrants and fire connections on private property.

- (a) *Fire service water mains.*

- (1) Fire service water mains shall be installed in accordance with approved plans and the city engineering public works department requirements and specifications for water main construction. Fire service mains shall also be installed in accordance with the National Fire Protection Association standard for the installation of private fire service mains and their appurtenances, NFPA 24. Conflicting provisions of the city engineering and public works

department specifications and NFPA 24 requirements should be reported to the fire department.

- (2) Fire service water mains, water meters and other appurtenances shall be designed to provide the minimum combined required sprinkler demand (if applicable) and needed fire flow at 20 pounds per square inch residual pressure at the hydraulically most difficult fire hydrant.
 - a. It is assumed that other fire hydrants, if provided, will provide a greater quantity of water at the same residual pressure.
 - (3) Required fire flow will be determined utilizing the North Carolina Fire Code Appendix B.
 - (4) Water flow testing will be conducted at the time of the Certificate of Occupancy to determine that the water system meets the water supply quantities determined in subsection (a)(2). Failure to meet the water flow requirements subsection (a)(2) will result in denial of certificate of occupancy.
- (b) *Fire hydrants.* Fire hydrant coverage shall not exceed the limits established in Chapter 5 and Appendix C of the North Carolina Fire Code, to the most remote point of any building covered by the state fire prevention code.
- (1) All fire hydrants will be on a public main, no private fire hydrants are permitted.
 - (2) For proper measurement, start at the fire hydrant and measure along the same path of travel as a fire truck would use. Do not measure according to the term "as the crow flies."
 - (3) The approach route of firefighting apparatus should be kept in mind as fire hydrant locations are determined. Fire hydrants should be located so that the fire apparatus will not have to go past the fire to catch a fire hydrant, then double back to the fire.
 - (4) Fire hydrants shall be installed and painted according to the city engineering, public works and fire department specifications.
 - (5) Each fire hydrant must be readily visible and within six feet of the curb line. No obstructions are permitted between the hydrant and the curb line.
 - (6) All obstructions, such as fences, trees, shrubs, signs, etc., shall be at least three feet from the fire hydrant in all directions. The city shall have the right to cut, trim or remove obstructions to the extent and for the purpose of correcting such hazards.
 - (7) The five-inch Storz connection of the fire hydrant shall always face the curb.
 - (8) The nut of the Storz connection cap shall be no less than 18 inches nor more than four feet above grade.
- (c) *Fire department connections.* The fire department connections for standpipe and/or sprinkler systems are important supplements to normal water supplies. Under fire conditions, these devices permit the fire department to increase the water supply and pressure to fire protection systems which may be materially reduced by a larger number of sprinklers operating or by the use of hose streams from standpipe risers.
- (1) Minimum size pipe shall be 4" diameter.
 - (2) All fire department fire sprinkler system connections for commercial buildings shall have one 5" Storz connection and protective cap. All fire department standpipe system connections for commercial buildings shall have two 2-1/2" NST connection and protective caps.
 - (3) The fire department connections at buildings provided with more than two standpipe risers shall all have two 2-1/2" NST connection and protective caps at all standpipe riser.
 - (4) Fire department fire sprinkler connections on residential structures with residential sprinkler systems shall have five-inch Storz connection and protective cap. Fire department fire standpipe connections on residential structures with residential standpipe systems shall have two 2-1/2" NST connection and protective caps.
 - (5) All fire department connections (fire sprinkler and standpipe) shall be located not less than 10 feet from building, nor more than five feet above finished grade. Fire department connections (fire sprinkler and standpipe) are not permitted at backflow preventer or hot boxes. The Fire Chief will make final decisions on locations.

- (6) In case were both a fire sprinkler and standpipe connection is required, both connections shall be within 5' of each other.
- (7) All fire department connections (fire sprinkler and standpipe) shall be provided a clear space of ten feet horizontally and vertically in all directions.
- (8) All fire department connections (fire sprinkler and standpipe) shall be readily visible and not more than 10 feet from a street, fire lane or similar area providing access to fire department apparatus. The area between the connection and vehicular access shall be free of obstructions.
- (9) There shall be an approved pumper fire hydrant within 100 feet of the fire department connection (fire sprinkler and standpipe) measured along an approved path of travel for the fire apparatus.

Sec. 5.32. - Installation, inspection and maintenance of private fire hydrants and private water system components.

- (a) *Installation.* All newly installed private fire hydrants and private water systems shall be installed in accordance with and subject to the city's ordinances, policies, and standard specifications; NCAC Title 15A, Subchapter 18C *Water Supplies*; and NFPA 24 *Standard for the Installation of Private Fire Service Mains and Their Appurtenances*.
- (b) *Inspection and maintenance.* The owner of a private water system shall have all fire hydrants and water system components tested and inspected by a contractor licensed by the state or a certified operator as defined in NCAC Title 15A, Subchapter 18C. Testing and inspection shall occur within the required maintenance periods specified in NFPA 25 *Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems*.
- (c) *Repairs.* The owner of a private water system shall be responsible for the repairs or replacement of any damaged, broken, and/or inoperable hydrants and/or water system components; and shall have all fire hydrant and/or water system component repairs or replacements conducted by a contractor licensed by the state in accordance with NCAC Title 15A, Subchapter 18C and NFPA 25 *Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems*.
- (d) *Violations.* Any person who fails to comply with the provisions of this section shall be subject to penalties in accordance with Section 2-25.

Sec. 5-33. - Fire lanes.

- (a) General
 - (1) Fire lanes shall be designated at all locations within the authority and jurisdiction of the city in accordance with the North Carolina Fire Code and as approved by the fire code official.
 - (2) Fire lanes installed shall conform to the requirements of the North Carolina Fire Code and shall be approved by the fire code official prior to installation.
 - (3) Fire lanes shall be installed in accordance with the specifications on file at the Risk Reduction office.
 - (4) Roadways, driveways and access ways shall not be marked as fire lanes without first obtaining approval from the fire department. Detailed plans showing the location of the lanes may be required to determine whether or not any proposed markings meet specifications established and on file at the Risk Reduction office.
- (b) Signs and marking.
 - (1) All fire lanes and access roads must be marked with signs indicating "no parking fire lane" as described in the specifications on file at the Risk Reduction office.
 - (2) Existing non-compliant fire lanes shall continue in effect as installed until such time as they are in need of re-stripping due to wear or re-paving. When re-stripped, existing fire lanes shall be installed to current specifications.
- (c) Violations and enforcement.

- (1) Any person who parks a vehicle in, obstructs, or allows the obstruction of a designated fire lane shall be liable for a civil penalty of \$100.00 upon receipt of a citation issued by the fire or police chief or any designee of either.
- (2) Any vehicle or object obstructing a designated fire lane, whether public or private, may be towed or removed without prior notification of the owner, and at the owner's expense.
- (3) The registered owner of the vehicle parked in the fire lane shall be responsible for all civil penalties issued and any towing or related charges accruing hereunder.
- (4) Civil penalties due hereunder shall be collected under the provisions set forth in Section 1-14.

Sec. 5-34 – 5-40. - Reserved.

ARTICLE III. – RESPONSE TO HAZARDOUS MATERIALS EMERGENCIES

Sec. 5-41. - Definitions.

- (a) *Cost(s)* shall mean all costs incurred for response to, limitation of, containment of, control of, abatement of, or mitigation of hazardous materials or substances emergencies and/or disposal of hazardous materials or substances or remedial action as a result directly or indirectly of a hazardous materials or substances incident including but not limited to:
 - (1) Costs of any health assessment or health effects study and related treatment carried out for responding personnel or other persons.
 - (2) Labor, including but not limited to benefits, overtime and administrative overhead.
 - (3) The cost of operating, leasing, maintaining, repairing, and replacement of any equipment.
 - (4) Contract labor or equipment.
 - (5) Materials, including but not limited to, absorbents, foam, dispersants, overpack drums, or containers.
 - (6) Supervision of response to, limitation, containment control, abatement, or mitigation or clean up.
 - (7) Labor or equipment obtained for, from, or by the city, its departments, employees or agents, or other local, state or federal agencies.
- (b) *Fire chief* shall mean the chief of the fire department that responded to a hazardous material incident.
- (c) *Having control over or had control over* shall include but not be limited to any person using, transferring, storing or transporting a hazardous material immediately prior to release of such hazardous material on to the land or into the air or the waters of the city as currently defined in G.S. 143-215.77 or as may be hereinafter amended or recodified.
- (d) *Hazardous material* shall include, but not be limited to, any substance or material in any form or quantity that poses an unreasonable risk to safety, health, or property or as currently defined in G.S. 143-215.75 or as may be hereinafter amended or recodified.
- (e) *Hazardous material incident* shall include, but not be limited to, actual or threatened release of hazardous substances or materials that pose an immediate threat to the health, safety or welfare of the population, including hazardous waste.
- (f) *Hazardous material response* shall include, but not be limited to, the sending of equipment to limit, contain, control, abate, or mitigate hazardous materials which endanger the health or safety of persons or the environment.
- (g) *Hazardous substance* shall include, but not be limited to, any material which when discharged may be harmful to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public or private property, shorelines and beaches.

- (h) *Incident commander* shall mean the senior official or officials of the fire department or other public agency in charge at the site of a hazardous material incident.
- (i) *Party or parties* shall mean, jointly and severally, the person(s):
 - (1) Whose negligent or intentional act or omission caused a release; or
 - (2) Who owned or had custody or control of, the hazardous substance or waste at the time of such release without regard to fault or proximate cause; or
 - (3) Who owned or had custody or control of the container which held the hazardous substance at the time of or immediately prior to such release without regard to fault or proximate cause; or
 - (4) Who owned or had custody or control of the real property upon which the hazardous substance was located at the time of or immediately prior to such release without regard to fault or proximate cause and who had knowledge, actual or implied, of the location of the hazardous material.
 - (5) "Party or parties" shall also include but not be limited to one or more corporations or partnerships, facilities, or other types of business entities.
- (j) *Person(s)* shall include but not be limited to individuals, firms, partnerships, associations, institutions, corporations, and local, state or federal government.
- (k) *Personal protective clothing (PPE)* means the equipment provided to shield or isolate a person from the chemical, physical, and thermal hazards that can be encountered at hazardous materials/weapons of mass destruction (WMD) incidents.
- (l) *Release* shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other receptacles containing any hazardous material or substance or waste or pollutant or contaminant).
- (m) *Response* shall mean a phase of emergency management that occurs during and immediately following an incident and provides emergency assistance to victims of the event and reduces the likelihood of secondary damage.

Sec. 5-42. – Purpose and Authority.

- (a) This article is enacted pursuant to the authority to regulate explosive, corrosive, inflammable or radioactive substances, G.S. 160A-183; oil pollution and hazardous substance control, G.S. 143-215.75 et seq., solid and hazardous waste management, G.S. 130A-294 et seq.; and the North Carolina Emergency Management Act, G.S. 166A-20 et seq.
- (b) The fire chief or his designee shall have the authority to summarily limit, contain, control, abate, or mitigate hazardous materials or substances emergencies that generally endanger the health or safety of the public. The fire chief or his designee shall have the authority to enter public or private property, with or without the property owner's consent, to respond to and mitigate such hazardous materials or substances emergencies whenever there is a threat, (real or perceived) to public safety. The fire chief or his designee shall determine the type, amount, and quantity of equipment and personnel required to adequately limit, contain, control, abate, or mitigate all hazardous materials or substances incidents.
- (c) Hazardous materials or substances incidents shall include but not be limited any reportable or non-reportable chemical in any reportable or non-reportable quantity that has been released and poses an eminent danger to the safety and welfare of the public or environment. Hazardous materials or substances may include but are not limited to:
 - (1) Explosives.
 - (2) Poison gas.
 - (3) Flammable solids.
 - (4) Flammable gas.
 - (5) Non-flammable gas.
 - (6) Radioactive elements.

- (7) Organic peroxide.
- (8) Corrosives.
- (9) Cryogenics.
- (10) Etiological/infectious agents and medical waste.
- (11) Flammable liquids.
- (12) Combustible liquids.
- (13) Oxidizers.

Sec. 5-43. - Response to hazardous materials or substances emergencies—Level of training.

The city fire department will operate at the appropriate level of emergency response as defined by OSHA 1910.120 or as may be hereinafter amended or recodified and the departments current level of training. The department may request mutual aid assistance to adequately control, abate, and mitigate all hazardous materials or substances incidents as necessary.

Sec. 5-44. - Hazardous materials or substances incidents, liability for costs.

- (a) The incident commander or fire chief is hereby duly authorized to take all reasonable measures to respond to, limit, contain, control, summarily abate, or mitigate the hazardous materials or substances incidents. Any party or parties who creates or causes a hazardous materials or substances incident shall be liable to the city for the payment of all costs as defined above incurred in the response to, limiting, containing, controlling, abating, mitigating or any necessary monitoring of such an incident.
- (b) The city will pursue all available remedies at law including but not limited to the penalties contained in this article, lis pendens or levy in the nature of tax, against any and all party or parties, jointly and severally, who creates or causes any hazardous material or substances incident.

(Ord. No. 2010-58, § 1, 10-11-10)

Sec. 5-45. - Responsibility—Fees and charges.

- (a) The property owner and/or the party having control over the hazardous materials or substances that creates the hazardous materials or substances emergency shall be held financially liable for any costs as defined above incurred by the city or other governmental entity during or as a result of the emergency. The property owner and/or party having control over such hazardous materials or substances, may provide personnel to assist abatement, removal and remedial measures, provided such personnel have been adequately equipped and trained pursuant to the requirements of state and federal laws. The city shall not be liable for the use of any such personnel. Assistance shall consist of any or all of the following:
 - (1) Informing fire department personnel of all matters pertaining to the incident.
 - (2) Supplying emergency response plan information for the site.
 - (3) Supplying emergency response equipment, personnel and materials.
 - (4) In all cases the first one hundred dollars (\$100.00) of costs shall not be charged to the party or parties.
- (b) Costs for hazardous materials emergency response on behalf of the city shall be based upon a yearly schedule as detailed in the fire fee schedule. Items may include but not be limited to:
 - (1) Engine responses;
 - (2) Hazardous materials unit response;
 - (3) Ladder truck response;
 - (4) Squad truck response;
 - (5) Battalion chief/emergency coordinator response;

- (6) Reusable entry suits;
 - (7) Monitors;
 - (8) Any other actual costs as defined above of the response to, limiting, containing, controlling, abating, mitigating, or any necessary monitoring of an incident of hazardous materials or substances as defined above.
- (c) Failure to pay the charges as assessed shall give the city the right to levy a lien upon the land or the premises where the hazardous material emergency arose and the levy shall be collected in the same manner as unpaid taxes pursuant to the authority of G.S. 160A-193 and G.S. 105-355 or as may be hereinafter amended or recodified.

(Ord. No. 2010-58, § 1, 10-11-10)

Sec. 5-46. - Reimbursement for hazardous materials or substances emergencies.

- (a) Any party or parties responsible shall institute and complete all actions necessary to remedy the effects of a discharge of hazardous materials or substances at no cost to the city. The fire chief or his designee has the authority to remedy the effects of a discharge of hazardous materials or substances by the fire department or by an authorized individual or firm. All costs associated with such remedy shall be borne by the property owner, operator or other person responsible for the discharge.

(Ord. No. 2010-58, § 1, 10-11-10)

Sec. 5-47. - Collection and disbursement of funds for cost recovery.

- (a) The city fire department and/or the city finance department shall serve as the city's agent for collecting invoices and billing the responsible party for costs. Agencies of the city or other organizations responding to a hazardous material incident at the request of the city will be eligible to submit bills.
- (b) Invoices that identify eligible costs under this article shall be submitted to the assistant fire chief or designee within ten (10) working days after the costs were incurred or identified. Submitted invoices should include sufficient documentation for cost reimbursement (i.e., copies of time sheets for specific personnel, copies of bills for materials, equipment, and supplies procured or used, etc.). Accepting invoices from agencies outside the city shall not incur liability to the city to pay costs from such agencies unless payment has been received by the city from the party or parties.
- (c) The city finance director or designee shall submit one or a series of consolidated invoice(s) to the party or parties identifying agencies or agents and their specific costs for reimbursement. The responsible party shall issue a certified check to the city within sixty (60) days of receiving any invoice. All funds received under the authority of this article shall be disbursed according to the claims submitted. Where the reimbursement is less than the requested amount, each agency shall receive a pro rata share of such reimbursement as the agencies reimbursable costs bear to the total reimbursable cost. The city shall not be liable to the agency for any deficiency.

(Ord. No. 2010-58, § 1, 10-11-10)

Sec. 5-48. - Fire incidents involving hazardous materials.

- (a) In fire incidents that involve hazardous materials or an exposure to hazardous materials, no fee will be assessed for resources normally associated with fire suppression operations. Costs as defined above shall be assessed for those activities and resources associated with the abatement, control and containment of the hazardous materials involvement or exposure which accrues more than one hundred dollars (\$100.00) in fees.

(Ord. No. 2010-58, § 1, 10-11-10)

Sec. 5-49. - Emergency response structure.

- (a) The fire chief or his designee has the authority to direct all city agencies and departments involved in the response based on an incident command system. Each agency is responsible to assure its personnel are adequately trained and equipped to operate at their appropriate level of training.

(Ord. No. 2010-58, § 1, 10-11-10)

Sec. 5-50. - Penalties and abatement.

- (a) Any party or parties whose hazardous materials or substances shall constitute a threat to the public health or safety shall be declared a nuisance and subject to an action of abatement pursuant to G.S. 160A-193 or as may be later amended or recodified.
- (b) Any party or parties who fail to issue a certified check to the city within sixty (60) days of the receipt of the invoice shall accrue an additional civil penalty equal to fifty dollars (\$50.00) per day for each amount of three thousand dollars (\$3,000.00) or less of unpaid costs.”

(Ord. No. 2010-58, § 1, 10-11-10)

4. Chapter 6

- (a) Sec. 6-1 is hereby amended to read as follows:

“No individual, company, corporation or other entity shall construct or operate any of the enterprises listed in G. S. Section 160A-311 or 160A-319 without a franchise granted by the City.”

5. Chapter 9. License and Miscellaneous Business Regulations

- (a) Article II. “Merchants” is amended to delete the term “Temporary Use Permit” wherever it appears and insert instead the term “Zoning Compliance Permit”.

- (b) Article IV. Health Clubs, Massage Parlors Sec. 9-61 paragraph 3 is amended as follows:

“The term “massage therapist” shall include masseur, masseuse or massagist.”

- (c) Article VI. Privilege License Tax

Article VI is deleted in its entirety.

- (d) Article VII Cable Television Services

Article VII “Cable Television Services” is hereby deleted in its entirety.

(e) Article V Pawnshops

Section 9-96 is hereby amended to delete the word “license” and insert instead the word “permit”.

6. Chapter 10 Vehicles and Traffic

(a) Sec. 10-122 “Speed Limits for Trains” is hereby repealed.

(b) Sec. 10-232 Definitions.

Junked motor vehicle subparagraph (3) is amended to read:

“(3) Is more than five years old and appears to be worth less than one hundred dollars (\$100.00) or is more than five years old and appears to be worth less than five hundred dollars (\$500.00).”

(c) Sec. 10-302 Privilege Tax levied is hereby amended as follows:

“Sec. 10-302. Motor Vehicle Tax

There is hereby levied an annual motor vehicle tax authorized by Section 20-97 of the General Statutes in an amount to be established by the City Council from time to time on every classified motor vehicle resident within the City of Kannapolis. Taxes will be collected in accordance with Section 105-330.5 of the General Statutes of North Carolina.”

7. Chapter 11

(a) Sec. 11-2 (d) third sentence is amended as follows:

“A chronic violator is a person who owns property whereupon, in the previous calendar year, the city gave notice of a violation at least three (3) times under the overgrown vegetation and public nuisance ordinances.”

(b) Sec. 11-3 “Loitering for the purpose of engaging in illegal drug-related activity is hereby amended by the addition of a new subparagraph (f) as follows:

“(f) This provision shall not be interpreted to prohibit any activity that is protected by the First Amendment of the United States Constitution.”

8. Chapter 12. Parks and Recreation

(a) Sec. 12-53 Composition and term of office of commission:

“Sec. 12-53 is hereby amended as follows:

The City Council shall appoint nine (9) members who shall constitute the Parks and Recreation Advisory Commission. The members shall be residents of Kannapolis and be persons known to have an interest in parks, recreation and leisure-time activities. All appointed members shall be appointed to serve a three (3) year term unless filling an unexpired term of a vacant position.

9. Chapter 17. Water and Sewer

(a) Sec. 17-5(c) is amended as follows:

“All water or sewer line extensions shall be constructed and installed in accordance with plans and specifications which have been approved by the City. The City reserves the right to require that water line and sewer extensions be constructed and installed in accordance with plans and specifications which have been prepared by a registered professional engineer and approved by the engineer for the City or by the approving authority.”

(b) Sec. 17-32(c) is amended to delete the reference “G.S. Section 14-151.1” and insert instead “G.S. Section 14-151.”

(c) Sec. 17-240

(d) Applicants requesting sewer service shall be required to connect to both the wastewater collection system and the water distribution system if water service is available, except where connection to the city sewer line is required by subsection (b) but not required by subsection (a).

(e) All properties in the city not included under this subsection shall be governed by the requirements of the state departments of health and human services and environment and natural resources.

(f) Any property owner receiving a permit pursuant to G.S. 97-97.2(a) or (b) shall not be required to connect to the public water system for so long as the permitted private drinking water well remains compliant and in use, except that subsection (a) may apply in any of the following situations:

- (1) The private drinking water well serving the property has failed and cannot be repaired.
- (2) The property is located in an area where the drinking water removed by the private drinking water well is contaminated or likely to become contaminated due to nearby contamination.
- (3) The city is being assisted by the local government commission.
- (4) The city is in the process of expanding or repairing the public water system and is actively making progress to having water lines installed directly available to provide water service to that property within the 24 months of the time the property owner applies for the private drinking water permit.

- (g) Nothing in this section 17-240 shall be construed to prevent any owner if developed or undeveloped property from voluntarily requesting connection to a city water or sewer line.

Adopted this the 8th day of April, 2019.

Milton D. Hinnant
Mayor

Bridgette Bell, MMC, NCCMC
City Clerk



**City of Kannapolis
City Council Meeting
April 8, 2019
Staff Report**

TO: Mayor and City Council
FROM: Wilmer Melton, III - Director of Public Works
TITLE NCDOT Project Updates

A. Action Requested by City Council

None. Presentation Only

B. Required Votes to Pass Required Action

Presentation Only, no action required

C. Background

NCDOT has several projects in planning and construction phases within the City of Kannapolis and this presentation will provide a status update to City Council.

D. Fiscal Considerations

None

E. Policy Issues

None

F. Legal Issues

None

G. Alternative Courses of Action and Recommendation

None

ATTACHMENTS:

File Name

No Attachments Available



**City of Kannapolis
City Council Meeting
April 8, 2019
Staff Report**

TO: Mayor and City Council
FROM: Eric Davis, Finance Director
TITLE Capital Project Ordinance and Reimbursement
Resolution for 2019 Revenue Bond Projects

A. Action Requested by City Council

Motion to approve a Capital Project Ordinance and Reimbursement Resolution for 2019 Revenue Bond Projects

B. Required Votes to Pass Required Action

Majority present at meeting

C. Background

The City has previously identified a number of projects that were priorities in the water and sewer system. These projects were prioritized (based upon the 2018 Gavel & Dorn Study) and included in the most recently approved Capital Improvement Plan. The projects covered by this Ordinance are:

- Alum Residuals removal at the water treatment plant
- Bulk Storage Container replacement
- Downtown Sewer Outfall replacement
- Dam concrete spillway chute repair
- Clearwell tank modifications

Staff needs to begin engineering on these projects so that construction can occur in a timely matter. Approval of this Capital Project Ordinance and Reimbursement Resolution will allow staff to ensure that funds are in place when they are necessary.

D. Fiscal Considerations

The City plans to issue Revenue Bonds in late 2019 to fund the construction of these projects. The total of all of the proposed Capital Projects is approximately \$19 million. Due to economic factors, the project costs have been escalating and completion of these

projects will require a water and sewer rate increase in either fiscal year 2020, or 2021 to ensure debt service payment coverage.

E. Policy Issues

All of these projects except one, was included in the City's last Capital Improvement Plan. The Water Treatment Plant Clearwell Repairs is a new project that is being pressed by the State due to potential functionality non-compliance.

F. Legal Issues

A Capital Project Ordinance is required so that funds can legally be spent.

G. Alternative Courses of Action and Recommendation

1. **Motion to approve a Capital Project Ordinance and Reimbursement Resolution for 2019 Revenue Bond Projects (Recommended)**
2. Do not approve a Capital Project Ordinance and Reimbursement Resolution for 2019 Revenue Bond Projects and delay the projects.
3. Table the matter to a later meeting.

ATTACHMENTS:

File Name

- ❏ 2019_Revenue_Bond_projects_4-8-19.doc
- ❏ 2019_Revenue_Bonds_4-8-19.doc

CITY OF KANNAPOLIS, NORTH CAROLINA
2019 REVENUE BOND
CAPITAL PROJECT ORDINANCE
19 - 19

BE IT ORDAINED by the City Council of the City of Kannapolis, North Carolina that, pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following Capital Project Ordinance is hereby adopted:

Section 1. The project authorized consists of Alum Sludge Removal Project, Bulk Storage Tank Replacement Project, Downtown Sewer Outfall Line replacement, Lake Dam Spillway Chute Repair, and Rogers Lake Road Bridge Improvements, and Water Treatment Plant Clearwell Repairs.

Section 2. The City Manager is hereby directed to proceed with the Capital Project in compliance with the North Carolina General Statutes and within the budget contained herein.

Section 3. The following revenues are anticipated to be available to complete this project:

| | |
|---------------|--------------|
| Loan Proceeds | \$19,000,000 |
| | ----- |
| TOTAL | \$19,000,000 |

Section 4. The following amount is appropriated for the project:

| | |
|----------------|--------------|
| Capital Outlay | \$19,000,000 |
| | ----- |
| TOTAL | \$19,000,000 |

Section 5. The finance officer is hereby directed to maintain within the Capital Project Fund sufficient specific detailed accounting records to provide for accounting to the City Council as required by North Carolina law.

Section 6. The finance officer is directed to report quarterly on the financial status of each project element in Section 4 and on total project revenue.

Section 7. The Budget Officer is directed to include a detailed analysis of past and future costs and revenues on this project in annual budget information presented to City Council.

Section 8. The City Manager is hereby authorized to transfer funds from one line item to another line item without further approval by the City Council.

Section 9. Copies of this Capital Project Ordinance shall be made available to the Budget Officer and the Finance Director for direction in carrying out this project.

This Ordinance is approved and adopted this 8th day of April 2019.

Milton D. Hinnant, Mayor

ATTEST:

Bridgette Bell, MMC, NCCMC
City Clerk

RESOLUTION
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KANNAPOLIS
DECLARING THE INTENT OF THE CITY OF KANNAPOLIS TO REIMBURSE
ITSELF FOR CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH
THE PROCEEDS OF CERTAIN TAX-EXEMPT OBLIGATIONS TO BE ISSUED.

WHEREAS, the City Council of the City of Kannapolis (the "*City*") has determined that it is in the best interest of the City to construct Alum Sludge Removal Project, Bulk Storage Tank Replacement Project, Downtown Sewer Outfall Line replacement, Lake Dam Spillway Chute Repair, and Rogers Lake Road Bridge Improvements, and Water Treatment Plant Clearwell Repairs, (the "*Project*");

WHEREAS, the City presently intends, at one time or from time to time, to finance all or a portion of the costs of the Project with the proceeds of tax-exempt obligations (the "*Bonds*") to finance, or to reimburse the City for, all or a portion of the costs of the Project; and

WHEREAS, the City desires to proceed with the Project and will incur and pay certain expenditures in connection with the Project prior to the date of issuance of the Bonds (the "*Original Expenditures*"), such Original Expenditures to be paid for originally from a source other than the proceeds of the Bonds, and the City intends, and reasonably expects, to be reimbursed for such Original Expenditures from a portion of the proceeds of the Bonds to be issued at a date occurring after the dates of such Original Expenditures;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Kannapolis as follows:

Section 1. ***Official Declaration of Intent.*** The City presently intends, and reasonably expects, to reimburse itself for the Original Expenditures incurred and paid by the City on or after the date occurring 60 days prior to the date of adoption of this Resolution from a portion of the proceeds of the Bonds. The City reasonably expects to issue the Bonds to finance all or a portion of the costs of the Project and the maximum principal amount of Bonds expected to be issued by the City to pay for all or a portion of the costs of the Project is \$19,000,000.

Section 2. ***Compliance with Regulations.*** The City adopts this Resolution as a declaration of official intent under Section 1.150-2 of the Treasury Regulations promulgated under Section 103 of the Internal Revenue Code of 1986, as amended, to evidence the City's intent to reimburse the City for the Original Expenditures from proceeds of the Bonds.

Section 3. ***Itemization of Capital Expenditures.*** The Finance Director of the City, with advice from bond counsel, is hereby authorized, directed and designated to act on behalf of the City in determining and itemizing all of the Original Expenditures incurred and paid by the City in connection with the Project during the period commencing on the date occurring 60 days prior to the date of adoption of this Resolution and ending on the date of issuance of the Bonds.

Section 4. ***Effective Date.*** This Resolution shall become effective immediately upon the date of its adoption.

Adopted this 8th day of April, 2019.

Milton D. Hinnant, Mayor

Attest:

Bridgette Bell, MMC, NCCMC



**City of Kannapolis
City Council Meeting
April 8, 2019
Staff Report**

TO: Mayor and City Council
FROM: Mike Legg, City Manager
TITLE Closed Session

A. Action Requested by City Council

GS. 143-318.11 (a) (3) to consult with an attorney in order to preserve the attorney client privilege and G.S. 143.318.11 (a) (4) for discussing matters relating to the location or expansion of industries or businesses in the area and G.S. 143-318.11 (a) (6) for the purpose of discussing personnel matters (Mayor Pro tem Haas)

MOTION TO ADJOURN MEETING

B. Required Votes to Pass Required Action

C. Background

D. Fiscal Considerations

E. Policy Issues

F. Legal Issues

G. Alternative Courses of Action and Recommendation

ATTACHMENTS:

File Name

No Attachments Available