

MAYOR DANIEL BOONE
MAYOR PRO TEM ALICE WHITTINGTON
ALDERMAN TONY ELLER
ALDERMAN DARLENE HICKS
ALDERMAN MIKE SMITH
ALDERMAN JOEL WHITLEY



TOWN OF ELK PARK
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1. Enforcement of Ordinances
2. Ordinance to Establish Procedures of Governing Body
3. Streets and Driveways
4. Motor Vehicles and Driveways
5. Noise Ordinance
6. Nuisance Ordinance
7. Amendments
8. Animal Control Ordinance
9. Utilities Ordinance

CHAPTER 1
ENFORCEMENT OF ORDINANCES

ARTICLE I. - In General.

Section 1-1. General Penalty: Enforcement of Ordinances, Continuing Violations.

(a) Unless otherwise specifically provided, violation of any provision of this Code of Elk Park Town Ordinances shall subject the offender to a civil penalty in the amount of \$100, to be recovered by the Town. Violators shall be issued written notice of the violation which must be paid within 72 hours after receipt of said notice. If the violator does not pay the penalty within 72 hours, the Town may recover such penalty, and all subsequently accruing penalties, in a civil action.

(b) Each day's continuing violation of any ordinance provision shall be a separate and distinct offense.

(c) Notwithstanding subsection (a) above, all ordinances may also be enforced by appropriate equitable remedies issuing from a court of competent jurisdiction.

(d) Unless otherwise specifically provided, violations of any provision of this Code of Ordinances shall not be a misdemeanor.

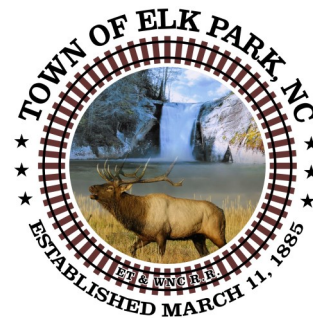
(e) If any section of this ordinance is held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

(f) In the event it is necessary for the Town to institute a civil action to collect a civil penalty for the violation of any provision of any Town Ordinance, the offender shall pay all court costs and reasonable attorney's fees incurred by the Town.

Adopted this

Mayor

(ATTEST)



CHAPTER 2

ORDINANCE TO ESTABLISH PROCEDURES OF GOVERNING BODY

ARTICLE 1 -Meetings.

Section 1 Regular Meetings. The Council shall hold a regular meeting on the first Monday of each month, unless that day is a legal holiday, in which case the meeting shall be held on the following Tuesday. If the first day of the month falls on a Tuesday, the council shall hold a regular meeting on that Tuesday. The meeting shall begin at 5:00 P.M. From April to November the meetings shall be held at 6:00 P.M. (Amended October 1, 2018)

Section 2 Special Meetings.

(a) A special meeting is any non-emergency meeting of the Council held at any time other than that specified in Section 1.

(b) The Mayor, the Mayor Pro Tempore, or any two members of the Council may at any call a special meeting by signing a written notice stating the time and place of the meeting, and the subjects to be considered.

(c) Notice of the meeting shall be given to the Mayor and Council members as provided in this subsection. Preferably forty-eight (48) hours, but not less than six (6) hours before the meeting:

(1) Written notice shall be delivered personally to each Council member; or

(2) If notice cannot be personally delivered, notice may be left at the Council member's usual place of dwelling. In this event, the Town Clerk shall make every reasonable effort to contact the Council member by telephone.

(d) Special meetings may also be held when all Council members are present and consent thereto or when those not present have signed a written waiver of notice, provided that the notice to the media required by Subsection (E) is given.

(e) The Town Clerk shall give notice of a special meeting to the public and the media, at least forty-eight (48) hours before the meeting, by:

(1) Posting a notice of the time and place of the meeting on the Town's principal bulletin board; and

(2) Mailing or delivering notice of the meeting to each of the media who has requested it in accordance with the Open Meetings Law.

(3) Mailing or delivering notice of the meeting to any person who has filed with the clerk a written request for it in accordance with the Open Meetings Law.

(f) Only those items of business specified in the notice may be transacted at a special meeting unless all members are present or have signed a written waiver of notice.

(g) A person or persons calling a special meeting of the Town Council shall comply with the notice requirements of Article 33C of the General Statutes, Chapter 143.

Section 3 Emergency Meetings.

(a) An emergency meeting is a meeting of the Council called because of generally unexpected circumstances that require immediate consideration.

(b) The Mayor, the Mayor Pro Tempore, or any two members of the Council may at any time call an emergency meeting by signing a written statement stating the time and place of the meeting and the subjects to be considered.

(c) Notice of the meeting shall be given to Council members in the same manner as notice of special meetings.

(d) Emergency meetings may also be held when all Council members are present and consent thereto or when those not present have signed a written waiver of notice, provided that the notice to the media required by subsection (e) is given.

(e) The Town Clerk shall give notice of an emergency meeting to each of the media who has requested it in accordance with the Open Meetings Law. This notice shall be given by either by telephone or by the same method used to notify Council members and shall be given immediately after the notice has been given to those members.

(f) Only business connected with the emergency may be transacted at an emergency meeting.

Section 4 Continued or Recessed Meetings.

(a) By majority vote the Council may continue or recess any regular, special or emergency meeting to any place and time specified in the motion to continue or recess the meeting.

(b) No further notice need be given of any continued or recessed session of a meeting set in accordance with subsection (a).

ARTICLE II - General Meeting Procedures

Section 1 Agenda.

(a) Preparation. The Town Clerk shall prepare the agenda for the meeting.

(b) Requests to be Placed on Agenda. A request to have any item of business placed on the agenda must be received by the Town Clerk in sufficient time so that the

agenda may be printed and distributed in accordance with subsection (e) of this section, and to this end the Clerk may establish an appropriate deadline to receive such requests.

(c) **Requests to Address Council.** Any individual or group that wishes to address the Council shall make a request to be on the agenda to the Town Clerk. However, the Council shall determine at the meeting whether the individual or group will be heard by the Council.

(d) **Contents.** The agenda shall include, for each item business placed on it, as much background information on the subject as is available and feasible to reproduce.

(e) **Inspection and Distribution.** Copies of the agenda and attachments shall be available for public inspection as soon as they are completed. The Town Clerk shall mail or deliver copies of the agenda and attachments to the Council Members in sufficient time to ensure that they are received prior to the meeting. Additional copies of the agenda may be available for the press and interested members of the public.

(f) **Additions.** The Council may, by majority vote of the Council membership, add an item of business that is not on the agenda. Unless otherwise specified by the Council, additions to the agenda shall be taken up at the conclusion of all other regular business.

Section 2 Order of Business.

(a) Items of business shall be taken up at a meeting in the order that they appear on the agenda, except as provided in subsection (d).

(b) Items shall be placed on the agenda according to the "Order of Business" established by the Council upon recommendation of the Town Clerk.

(c) In establishing the "Order of Business" the Council may authorize broad categories of business to be included as agenda items, such as "members of the public wishing to be heard," or

"matters by the Town Clerk" or "matters by attorney."

(d) Items may be considered out of order by consent of all members present or by majority vote upon a motion.

Section 3 Presiding Officer.

(a) The Mayor shall preside at meetings of the Council, except as provided in subsection (c). A member must be recognized by the Mayor in order to address the Council.

(b) As presiding officer, the Mayor shall have the following powers, in addition to those conferred elsewhere in this chapter:

- (1) To rule motions in or out of order, including the right to rule out of order any motion patently offered for obstructive or dilatory purposes;**
- (2) To determine whether a speaker has gone beyond reasonable standards of courtesy in the speaker's remarks and to entertain and rule upon objections from other members on this ground;**
- (3) To entertain and answer questions of parliamentary law or procedure, subject to being overruled by a two-thirds vote of the membership of the Council;**
- (4) To call a brief recess at any time;**
- (5) To recess or adjourn the meeting in the event of an emergency.**

(c) If the Mayor becomes actively engaged in debate on a particular proposal, he may delegate the duty to preside over the debate to the Mayor Pro Tempore or to any other member of the Council who is not so engaged and who acquiesces in the delegation. The temporary chairman may only preside over the debate and may not participate in it; however, he does not forfeit his right to vote on the issue by acting as temporary chairman. The Mayor shall resume the duty to preside as soon as action upon the matter is concluded.

Section 4 Quorum. A majority of the actual membership of the Council, excluding vacant seats, shall constitute a quorum. A quorum is necessary for the Council to take any official action. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether a quorum is present.

Section 5 Taking Official Action.

- (a) The Council shall proceed by motion. A motion, when duly seconded, brings the matter before the Council for its consideration.**
- (b) A motion may be withdrawn by the introducer at any time prior to a vote if the member who seconded the motion concurs.**
- (c) Subject to Section 8 and other provisions of law, official action of the Council shall be by majority vote.**

Section 6 Debate. Once a motion has been stated and seconded, the Mayor shall open the floor to debate upon it. The Mayor shall preside over the debate according to the following general principles:

- (1) The member who makes the motion is entitled to speak first;**

(2) A member who has not spoken on the issue shall be recognized before someone who has already spoken;

(3) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Section 7 Voting.

(a) Once a member is physically present at a Council meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused from voting in accordance with Subsection (b) or has been allowed to withdraw from the meeting in accordance with Subsection (c).

(b) A member may be excused from voting on a particular issue by majority vote of the remaining members present if the matter at issue involves that member's own financial interest or official conduct.

(c) A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

(d) A motion to allow a member to be excused from voting or excused from the remainder of the meeting is only in order if made by or at the initiative of the member directly affected.

(e) A roll call vote shall be taken upon the request of any member.

(f) When this Chapter specifies that action shall be taken by majority vote or fails to specify the vote required, that shall be interpreted to mean a vote of the majority of those present and not excused from voting. When a two-thirds vote is required, that shall be interpreted to mean a vote of two-thirds of those present and not excused from voting. When a vote of a certain percentage of the Council membership is required, that shall be interpreted to mean the specified percentage of all seats on the Council, excluding vacant seats.

Section 8 Adoption of Ordinances.

(a) An affirmative vote equal to a majority of all the members of the Council not excused from voting on the question in issue shall be required to adopt an ordinance or take any action having the effect of an ordinance.

(b) Subject to the provisions of Chapter 159 of the General Statutes (Local Government Finance), no ordinance nor any action having the effect of any ordinance may be finally adopted on the date on which it is introduced except by an affirmative vote

equal to or greater than two-thirds of the Council membership. When an ordinance requires a public hearing,

the ordinance shall be considered introduced at the meeting when the Council sets a date for the public hearing.

(C) Franchise ordinances and amendments shall not be finally adopted until passed at the regular meeting of the Council.

Section 9 Executive Sessions. The Council may hold executive sessions in accordance with the Open Meetings Law, Article 33C of Chapter 143, and other provisions of the law. The Council shall commence an executive session by a majority vote to do so and shall terminate an executive session in the same manner.

Section 10 Public Hearings.

(a) Public Hearings required by law or deemed advisable by the Council shall be scheduled pursuant to a motion adopted by a majority vote setting forth the subject, date, place, and time of the hearing as well as any rules regarding the length of time of each speaker and other matters regarding the conduct of the hearing.

(b) At the appointed time the Mayor shall call the hearing to order and then preside over it. Upon the expiration of the allotted time, or when there are no individuals who wish to speak who have not done so, the Mayor shall declare the hearing ended.

(c) A quorum of the Council shall be required at all public hearings required by State law.

Section 11 Minutes.

Minutes shall be kept of all meetings of the Council.

ARTICLE III - Motions.

Section 1 Substantive and Procedural Motions.

(a) A substantive motion is a motion that seeks to have the Council exercise any of its powers, duties, or responsibilities. A motion to amend a substantive motion is also a substantive motion. A substantive motion, other than to amend, is out of order while another substantive motion is pending.

(b) A procedural motion is a motion that relates either to the manner in which the Council conducts its business in general or the manner in which the Council deals with a particular substantive issue or substantive motion that is before it.

(c) Unless otherwise specifically provided, all motions authorized by this Article may be amended and debated.

Section 2 Motion to Amend.

- (a) An amendment to a motion must be germane to the subject matter of the motion, but it may achieve the opposite effect of the motion.**
- (b) There may be an amendment to the motion, and an amendment to the amendment, but no further amendments.**
- (c) Any amendment to a proposed ordinance shall be reduced to writing upon the call of any member.**

Section 3 Motions to Dispose of Issue Without Deciding Merits.

- (a) Motion to Defer Consideration Until a Date Certain.** This motion requires that a date be set when without further action by the Council, a matter will again be placed on the agenda.
- (b) Motion to Defer Consideration Indefinitely.** Adoption of this motion removes the issue from the Council's consideration until such time as a motion to revive consideration is adopted [see section 4(a)] or a new motion dealing with the same issue is introduced and seconded [see section 5(a)].
- (c) Motion to Refer to a Committee.** Unless this motion includes an instruction to report the matter back by a date certain, or unless a motion is adopted under Section 4 (b), a matter referred to a committee remains there until returned to the Council by the committee.

Section 4 Motions to Revive or Reconsider an Issue.

- (a) Motion to Revive Consideration of an Issue.** Adoption of this motion brings an issue back before the Council for its consideration, regardless of whether the issue had been deferred indefinitely or to a date certain.
- (b) Motion to Recall an Issue from Committee.** Adoption of this motion may bring a matter immediately before the Council, or the motion may direct a committee to report an issue back to Council by a date certain.
- (c) Motion to Reconsider a Vote.** This motion may be made only at the meeting at which the vote in question was taken and only by a member who voted with the prevailing side. If adopted, the effect is to negate the earlier vote and then bring the matter back before the Council as if the earlier vote had never taken place.

Section 5 Reconsideration of Matters Disposed of on the Merits.

(a) Renewal of Motions. A motion that is defeated may be renewed at any subsequent meeting.

Section 6 Motion to Terminate Debate. A motion to call the previous question is a motion to cut off debate on a matter under consideration and put the matter to a vote. This motion shall be in order at any time, but unless each Council member present has had an opportunity to speak at least once on the issue, the motion requires a two-thirds vote for adoption. This motion is not debatable and may not be amended.

Section 7 Miscellaneous Motions. In addition to others authorized by this Article, the following motion shall be in order:

- (a) Divide a complex question and consider it by paragraph.**
- (b) Suspend the rules. This motion shall require a two-thirds vote for adoption.**
- (c) Take a recess.**
- (d) Adjourn. This motion may not be amended.**

ARTICLE IV - Miscellaneous.

Section 1 Qualification for Office. Upon the motion of any member, the Council shall determine the qualifications of any member. An office may be declared vacant by a majority vote for the Council membership if the member fails to meet any of the statutory or constitutional requirements of office.

Section 2 Appointments. The Council shall use the following procedure to appoint individuals to various subordinate boards and offices:

- (a) The Mayor shall open the floor to nominations, whereupon the names of possible appointees shall be put forward by the members and debated. Upon the conclusion of the debate, the Mayor shall propose each name in alphabetical order, and the members shall cast their votes.**
- (b) If only an appointee is to be selected, the voting shall continue until one nominee receives a majority of the votes cast, where upon he shall be appointed.**
- (c) If more than one appointee is to be selected, then each member shall have as many votes as there are slots to be filled. A member must cast all of his votes, and cast them for different nominees. The nominees receiving the highest number of votes shall be appointed.**

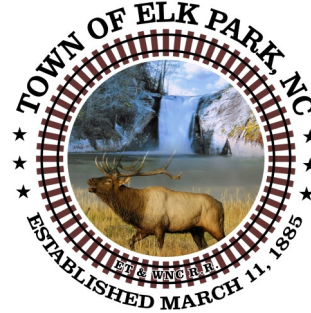
Section 3 Reference to Robert's Rules of Order. Robert's Rule of Order, newly revised, shall govern all procedural matters not addressed by the provisions of this chapter. However, no action taken by the Council shall be invalidated by a failure to abide by Robert's Rules of Order.

Section 4 Vacancies. If the number of vacancies on the Council is such that a quorum of the Council cannot be obtained, the Mayor shall appoint enough members to make a quorum, and the Council shall then proceed to fill the remaining vacancies. If the number of vacancies on the Council is such that a quorum of the Council be obtained and the office of the Mayor is vacant, the Governor may fill the vacancies upon the request of any remaining member of the Council, or upon the petition of any five registered voters of the city, appointment of the Town Council for the remainder of the unexpired term. Vacancies in appointive offices shall be filled by the same authority that makes the initial appointment.

Adopted this the

Mayor

Town Clerk



CHAPTER 3
STREETS AND DRIVEWAYS ORDINANCE

Section 1 Definitions.

(a) Private driveway: Any means of vehicular access other than those maintained by the Town of Elk Park or the NC Department of Transportation serving only one parcel lot.

(b) Private street: Any means of vehicular access other than a private driveway or a public street, road or highway.

Section 2 Obstructions Prohibited.

(a) Except as otherwise authorized by subsection (b) below, no person may place or leave any object within the Town's right-of-way.

(b) In the event that the terrain of property is such that building materials cannot be safely stored off the street right-of-way, the contractor may, with prior approval of the Town, store materials on the street right-of-way for a period of time not to exceed 48 hours, providing such stored materials do not interfere with, or obstruct, the normal flow of traffic.

(c) No person shall store any type of vehicle used in construction within the Town's right-of-way. Any vehicle not ordinarily used primarily as a passenger motor vehicle shall be considered a vehicle used in construction.

Section 3 Overhanging or Protruding Trees, Shrubs, Fences, Etc.

(a) No person may cause or allow (from property under his control) any tree limb, bush, shrub, or other obstruction to overhang a public street at a distance of less than 12 feet above the traveled portion of such street or a public sidewalk at a distance of less than seven feet above such sidewalk.

(b) No person may cause or allow grass, vines, weeds, or other vegetation to grow from property under his control over, onto, or across any public street or sidewalk.

(c) Any violation of Subsection (a) or (b) is declared to be a public nuisance.

Section 4 Driveway Connections.

(a) The objectives of this section are:

(1) To provide maximum protection and safety to the public through the orderly control of traffic entering and leaving the street.

(2) To provide for proper drainage.

(3) To provide a uniform policy throughout the Town in the design and construction of driveways.

(b) Notify Town.

(1) Any person or corporation desiring to construct a driveway or other connection within the right-of-way of a Town Street shall, before beginning any construction, inform the Town Clerk, so that the Town can see if the driveway will be properly constructed to connect with the Town Street.

Section 5 Slippery and Dangerous Streets.

If, in the opinion of the Town Police, any street within the Town of Elk Park which, due to snow, sleet, ice or other condition, may be dangerous to the safety of any person traveling on same, the Town Police may require all vehicles that travel on said street to be a 4-wheel drive vehicle or to have chains or studded snow tires on the drive wheels of the vehicle. In cases of extreme danger, the Town Police may close the street to the traffic until the condition is abate.

Section 6 Commercial Drives and Driveways.

In the interest of public safety, the Public Works Director may cause commercial drives and driveways which connect to the public street system to be sanded by the Town. Such work shall only be performed if requested by the property owner or agent, and at the expense of the requesting party.

Section 7 Private Roads Restricted.

No private street or road may be constructed in such a manner as to connect with a Town Street or road or right-of-way unless the property owner or developer shall have first obtained permission from the Town. A request must be made to the Town from a party or parties to allow a private street or road to be constructed so as to connect to the Town's system provided all requirements of the Town of Elk Park and the N.C. Department of Transportation concerning roadway width, construction standards and right-of-way width are met. In the event of conflict between the Town of Elk Park and N.C. Department of Transportation requirements, the more stringent shall apply.

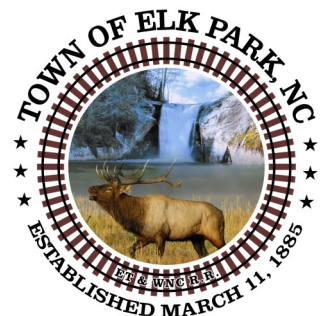
Section 8 Town Acceptance.

Private roads constructed to appropriate standards may be accepted by the Town, and at the Town's sole discretion, upon written offer of dedication provided a monetary guarantee is furnished by the owner in an amount equal to 0.25 times the entire cost of installing all required improvements. This guarantee shall be in a form acceptable to the Town and shall guarantee all improvements for a period of one year from the date of acceptance.

Adopted this, the _____

Mayor

Town Clerk



CHAPTER 4

MOTOR VEHICLES AND TRAFFIC

ARTICLE I. - In General

Section 2-1. Definitions and Rules of Construction.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

(a) **Town Clerk.** The Town Clerk or his designee who are instructed to perform the function assigned by this Chapter to the Town Clerk. Whenever this ordinance authorizes or requires the Town Clerk to install a traffic control device controlling parking or regulating the movement of traffic on, to, or from a state highway system street and the installation of such a device is in practice a function of the State Department of Transportation, the Town Clerk may discharge that responsibility by requesting the State Department of Transportation to install such a device.

(b) **Driver.** The operator of a vehicle.

(c) **Highway or street.** The entire width between property or right-of-way lines of every way or place of whatever nature, when any part thereof is open to the use of the public as a matter of right for the purposes of vehicular traffic. The term "highway" or "street" or a combination of the two terms shall be used synonymously.

(d) **Intersection.** The area embraced within the prolongation of the lateral edge of roadway lines of two or more highways which join one another at an angle whether or not one such highway crosses the other.

(e) **Local street.** A street within the Town that is not part of the State highway system.

(f) **Motor vehicle.** Every vehicle that is self-propelled and every vehicle designed to run upon the streets that is pulled by a self-propelled vehicle.

(g) **Operator.** A person in actual physical control of a vehicle that is in motion or that has the engine running.

(h) **Parking or standing.** A vehicle is parked or is permitted to stand when it is stopped and allowed to remain in a fixed location for any duration of time, whether attended or unattended. Except where the context clearly indicates otherwise, the limitation on parking and standing in this chapter apply only to locations within a street right-of-way. In no case do these limitations apply when a vehicle is stopped to avoid conflict with other traffic or in compliance with law or the directions of a police officer or traffic control device or as a result of an emergency or because the vehicle is disabled due to mechanical failure.

(i) Traffic control device. Any sign, signal, marking, or other device placed or erected pursuant to a lawful ordinance and designed to control, regulate, warn and guide traffic.

(j) Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon fixed rails or tracks, provided that for the purposes of this chapter bicycles shall be deemed

vehicles and every rider of a bicycle upon a highway shall be subject to the provisions of this chapter applicable to the driver of a vehicle except those which by their nature can have no application.

ARTICLE II - Traffic Control and Traffic Control Devices.

Section 2-2 Stop Signs Required at Certain Intersections.

(a) The second-named street in the following list of intersections is hereby designated as a main traveled or through street, and the Town Clerk shall erect stop signs on the first street at the entrance to the main traveled or through street. The effect of such stop signs on vehicles and pedestrians shall be as provided:

1. Ice Plant Street @ Winters Street
2. Winters Street @ Highway 19-E
3. Parlier Street @ Brooks Shell Road
4. Reservoir Hill Road @ Highway 19-E
5. Chambers Street @ Winters Street
6. Chambers Street @ Brooks Shell Road
7. Ferncliff Drive @ Brooks Shell Road
8. Church Street @ Brooks Shell Road
9. Church Street @ Parlier Street
10. Cornett @ Highway 19-E
11. Iron Street @ Highway 19-E
12. Davis Street @ Highway 19-E
13. Davis Street @ Old Highway 19-E
14. Jerry Hicks Street @ Davis Street
15. Hopson Street @ Old Highway 19-E
16. Sunset Circle @ Reservoir Hill Road
17. Joe Greene Street @ Reservoir Hill Road
18. Smith Street @ Brooks Shell Road
19. Ginnie Street @ Winters Street

Section 2-3 General Speed Limits.

The maximum speed limit on all streets within the boundaries of the Town of Elk Park shall be 25 miles per hour, unless otherwise posted. The speed limit on Highway 19-E from city limit to city limit is 35 miles per hour.

Section 2-4 Speed Limits.

(a) Whenever a speed limit has been established and appropriate traffic control devices have been installed in accordance with subsection (b) of this section, no person may operate a vehicle on any street in excess of the posted speed.

(b) The following speed limits shall be applicable to the following streets as indicated and the Town Clerk shall install appropriate traffic control devices clearly indicating the established speed limit.

(1) Highway 19-E: Maximum 35 miles per hour.

(2) All other streets: Maximum 25 miles per hour.

(3) Winters Street and Parlier Street Maximum 15 miles per hour.

(c) The Town Clerk may install speed limit signs at appropriate locations, but enforcement of the provisions of this section is not dependent upon the installation of such signs.

ARTICLE IV - Licensed Vehicles and Licensed Operators.

No person may operate a vehicle within the Town of Elk Park unless the vehicle bears a license plate, and the operator has a driver's license permitting said operator to drive the licensed vehicle.

ARTICLE V - Parking.

Section 2-5 Parking Prohibited in Certain Locations.

(a) No person may park any vehicle or permit it to stand in any of the following locations:

1. As provided in G.S. 20-162 in front of a private driveway.

2. As provided in G.S. 20-162 within 15 feet in either direction of a fire hydrant, or

the entrance to a fire station.

3. As provided in G.S. 20-162 within 15 feet of the intersection of property lines at an

intersection of streets.

4. In any portion of a street or highway intended to carry traffic.

5. On the roadside of any vehicle stopped, standing, or parked at the edge of a street

(double parking).

6. Alongside or opposite any street excavation or obstruction when such

parking or standing would obstruct traffic.

7. In any parking clearly marked as reserved for the handicapped whether on public

or private property, unless the driver of, or passenger in, such vehicle is handicapped.

8. On any area of any street where "No Parking" signs have been installed.

9. Within the Town's right-of-way for a continuous period of 24 hours.

(b) The Town may install "No Parking" signs, or other traffic control devices to indicate where parking and standing is prohibited but enforcement of the provisions of this section is not dependent on the installation of such devices.

(c) All construction personnel and service employees who are engaged in performing work within the Town of Elk Park may park their vehicles on the street right-of-way only when such parked vehicles do not interfere with or obstruct the flowing of traffic.

(d) Any vehicle disabled due to mechanical failure which does not necessarily create a public safety hazard must be removed within a 24-hour period.

(e) No agent or employee of the Town, no person or occupant of the premises from which any derelict or abandoned vehicle shall be removed, nor any person or firm contracting for the removal of or disposition of any such vehicle shall be held criminally or civilly liable in any way arising out of or caused by carrying out or enforcing any provisions of this Chapter.

ARTICLE VI - Miscellaneous.

Section 2-7 Special Provisions.

(a) No person riding a bicycle, coaster, toy vehicle, sled, skis, or similar devices may attach himself or herself or such vehicle or device to any moving motor vehicle.

(b) The driver of a bicycle or motorcycle, when upon the street, may not carry any other person upon the handlebars, the back, or any other part of a motorcycle or bicycle not designed for carrying passengers.

(c) A vehicle which is driven or moved upon a highway only for the purpose of crossing such highway from one property to another shall be exempt from the requirements of registration and certificate of title as required by State law as provided in G.S. 20-51.

ARTICLE VII - Penalties and Remedies.

Section 2-7 Penalties and Remedies.

(a) Criminal Penalties.

(1) Any violation of the following sections shall be punishable by a fine of not more than \$50.00: Sections 2-3, 2-4, 2-5.

(2) Any violation of the following sections shall be punishable by a fine of \$10.00:

Section: 2- 5, 2-7.

(b) Civil Penalties.

(1) In addition to the criminal penalties and other sanctions provided in this Chapter for violation of its provisions, any violation of this Chapter may also subject the offender to those civil penalties hereinafter enumerated. Civil penalties may be recovered by the Town in a civil action in the nature of debt or may be collected in such other amounts as prescribed herein within the prescribed time following the issuance of notice or citation for the violation.

(2) Notice to be affixed. Whenever a member of the police department of the Town or other person authorized with regulating the parking of vehicles shall find that any of those provisions are being, or have been, violated by the owner or operator of the vehicle, such officer or person shall notify the owner or operator of the vehicle of the violation by conspicuously attaching to the vehicle a parking violation notice or citation in such form as the Town Clerk or his designee may direct.

(3) Penalty. A civil penalty of \$10.00 shall be imposed for each violation of Section 2-5 in those cases in which payment is made within the prescribed 48-hour period.

(4) Additional penalty and costs. A penalty of \$25.00, in addition to the one imposed for payment within 48 hours, shall apply in those cases in which the penalties prescribed in subsection (3) above have not been paid within the prescribed 48-hour period and in which a civil action shall have been instituted. In the event it is necessary for the Town to institute a civil action to collect such penalty, the violator shall be responsible for all court costs and attorney fees incurred by the Town.

(5) The penalty herein provided to be paid to and received by the Town shall in no event be construed to be an enforced imposition of fines or forfeitures,

CHAPTER 5
NOISE ORDINANCE

Section 1. It shall be unlawful for any person, firm or corporation to make, continue, or cause to be made or continued any excessive, unreasonable or unusually loud noise or any noise which annoys, disturbs, frightens, injures or endangers citizens within the corporate limits of the Town.

Section 2. Noises Prohibited. The following acts, among others, are declared to be loud and disturbing noises in violation of this ordinance, but said enumeration shall not be deemed to be exclusive, namely:

(a) **Horns, Signaling Devices, etc.** The sounding of any horn or signal device on any automobile, motorcycle, bus or other vehicle, except as a danger signal, so as to create any unreasonable loud or harsh sound, or the sounding of such device for an unreasonable period of time, or the use of any siren upon any vehicle, other than police, fire or other emergency vehicle or equipment.

(b) **Radios, Stereo Systems, etc.** The using, operating, playing, or permitting to be played, used or operated of any television set, radio receiving set, musical instrument, stereo system, or sound amplifying device or other machine or device for the producing or reproducing of sound in such a manner or with such volume as to annoy or disturb the neighboring inhabitants or any person in any dwelling, motel, hotel or other type of residence.

(c) **Yelling, Shouting, etc.** Yelling, shouting, hooting, whistling, or singing on the public streets, particularly between the hours of 10:00 PM and 7:00 AM or at any time or in any place in such a manner as to annoy or disturb the neighboring inhabitants or of any persons in any office, or in any dwelling, motel, hotel or other type of residence, or of any persons in the vicinity.

(d) **Animals, Birds etc.** The keeping of any animal or birds which, by causing frequent or long continued noise, shall annoy or disturb any person in the vicinity.

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

(f) **Loading, Unloading, Opening Boxes.** The creation of a loud noise in connection with loading or unloading any vehicle or the opening and destruction of bales, crates, and containers.

(g) **Hawkers, Peddlers.** The shouting and crying of peddlers, hawkers and vendors which disturb the peace and quiet of the neighborhood.

Section 3. Separability. It is the intention of the Town Council of the Town of Elk Park that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and that if any provision of this ordinance is declared to be invalid, all other provisions thereof shall remain valid and enforceable.

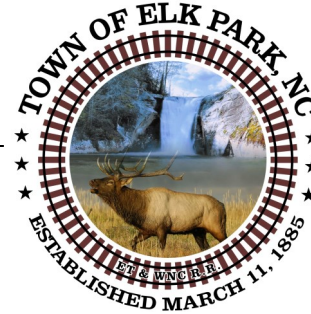
Section 4. Effective Date. This ordinance shall become effective upon its adoption.

ADOPTED this _____

ATTEST: _____

Town Clerk

Mayor



CHAPTER 6

NUISANCE ORDINANCE

ARTICLE I - In General Policy Statement.

(a) Burned out or incomplete structures, the uncontrolled growth of noxious weeds and grass, the accumulation of offensive animal and vegetable matter, and the accumulation of refuse cause or threaten to cause a nuisance dangerous and prejudicial to the public health or safety.

(b) It is the intention of the Town Council to preserve the natural beauty of the Town of Elk Park, free from litter, waste, noxious growth and other nuisances so as to protect property values and promote the tourist industry.

(c) The Town Council is authorized be Section 160A-174, 160A-175, 160A-192 and 160A-193 of the General Statutes of North Carolina to abate nuisances.

Section

1

Definitions.

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this chapter.

(1) **Town Clerk.** The Town Clerk or any other person designated by the Clerk to perform the functions and exercise the responsibilities assigned by this chapter to the Town Clerk.

(2) **Garbage.** All solid wastes capable of being rapidly decomposed by microorganisms, including but not limited to animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of food, as well as animal offal and carcasses, but excluding sewage and human wastes.

(3) **Refuse.** All solid wastes except (i) garbage and (ii) solids that are dissolved or suspended in domestic, commercial or industrial wastewater effluent.

(4) **Scrap Materials.** Scrap materials are

a. Pieces or fragments of metal, wood, glass, masonry, plastic, textiles, rope, leather, rubber, paper or any other substance that formerly were part of the construction of some useful object or thing or that consist of the excess resulting from the creation of some useful object or thing; or

b. Objects or things, including but not limited to, machine, tools, equipment, hardware, furniture, appliances, etcetera's, or parts of the same that are no longer in serviceable condition or are valuable only as raw material for reprocessing; or

c. **Brush.** Any cut weeds, grass, brushes, trees, stumps, branches, or other plant materials, but that do not constitute solid wastes as herein defined because

they are or may be useful to or wanted by or have not been discarded by the person in control of the premises where they have been located.

(5) Solid Wastes. Wastes that are nongaseous and non-liquid (except those liquid wastes resulting from the processing of food are deemed solid wastes for the purposes of this chapter).

(6) Wastes. All useless, unwanted or discarded materials resulting from domestic, industrial, commercial or community activities.

ARTICLE II - Control of Solid Wastes, Scrap Materials, Noxious Growth

Section 1 Dumping or Littering on Private Property.

(a) No person, partnership, corporation or organization may place, discard, throw, drop or deposit or cause to be distributed, placed, discarded, thrown, dropped or deposited fliers or other types of promotional materials in such a manner that said fliers or promotional materials become scattered about private property. The person, partnership, corporation or organization that is responsible for or is benefiting from said promotion shall be in violation of this section. Each individual flier and each individual promotional material that becomes scattered about as described above shall constitute a separate violation of this section.

(NOTE: G.S. 14-134. 1 also prohibits dumping on private lands or state waters without the written consent of the owner and authorizes a maximum fine of five hundred (\$500) dollars for violations.)

Section 2 Dumping or Littering on Streets, Sidewalks and Other Public Property.

(a) No person, partnership, corporation, or organization may distribute, place, discard, throw, drop or deposit or cause to be distribute, placed, discarded, thrown, dropped or deposited any solid waste on any public street or sidewalk within the Town or on any property owned or operated by the Town, except in properly designated receptacles.

(b) No person, partnership, corporation, or organization may distribute, place, discard, throw, drop or deposit or cause to be distributed, placed, discarded, thrown, dropped or deposited any flier or other type of promotional material in such a manner that said fliers or promotional materials become scattered about any public street or sidewalk within the Town or about promotional materials become scattered about any public street or sidewalk or about any property owned or operated by the Town. The person, partnership, corporation or organization that is responsible for or is benefiting from said promotion shall be in violation of this section. Each individual flier and each individual promotional material that becomes scattered about as described above shall constitute a separate violation of this section.

(c) It shall be unlawful for any person while a driver or a passenger in a vehicle to

throw or deposit litter upon any street or other public place within the Town or upon private property.

(NOTE: G.S. 14-399 also makes it a misdemeanor to place or leave any solid waste on the right of way of any public street and authorizes a maximum fine of two hundred (\$200) dollars for violations.)

Section 3 Transportation of Solid Waste Within the Town. No person may transport or cause to be transported any solid wastes on the public streets of the Town unless the solid wastes are so secured that no solid wastes escape from the transporting vehicle. In addition, any garbage so transported shall be carried in closed containers that prevent the escape of noxious odors or liquids.

Section 4 Accumulating of Scrap Materials. No person may cause, suffer or permit scrap materials to accumulate or remain on premises under his control.

Section 5 Noxious Growth. No person may cause, suffer or permit on premises under his control any growth of weeds, grasses or other plants or bushes that becomes or threatens to become a fire hazard or a harboring place for rats, mice, snakes or other vermin or otherwise poses a danger to the public health or depreciate property values or cause loss of business by detracting from the appearance and character of residential and commercial neighborhoods.

ARTICLE III - Public Nuisances.

Section 1 Public Nuisance Defined. The existence of any of the following conditions on any vacant lot or other parcel of land within the corporate limits of the Town is hereby declared to be dangerous and prejudicial to the public health or safety and to constitute a public nuisance:

(a) The uncontrolled growth of noxious weeds or grass to a height in excess of twenty-four (24) inches causing or threatening to cause a hazard detrimental to the public health or safety.

(b) Any accumulation of rubbish, trash, or junk causing or threatening to cause a fire hazard, or causing or threatening to cause the accumulation of stagnant water, or causing or threatening to cause the in habitation therein of rats, mice, snakes, or vermin of any kind which is or may be dangerous or prejudicial to the public health.

(c) Any accumulation of animal or vegetable matter 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.

(d) The open storage of any abandoned ice box, refrigerator, stove, glass, water heater, building material, building rubbish or similar items.

(e) Any condition detrimental to the public health which violates the rules and regulations of the County Health Department.

(f) Any burned out structure.

(g) Any incomplete structure on which no work has been done for a period of six (6) months.

(h) Any other condition specifically declared to be a danger to the public health, safety, and general welfare of inhabitants of the Town and a public nuisance.

(Amended August 3, 1998)

ARTICLE IV - Enforcement.

Section 1 Investigation.

(a) The Police Officer shall have the responsibility for enforcing the provisions of the Ordinance.

(b) The Police Officer, upon notice from any person of the possible existence of any of the conditions described in Article III shall cause to be made such investigations as may be necessary to

determine whether conditions exist which may constitute a public nuisance as defined

in Article III.

Section 2 Hearing. If it appears that such conditions exist, the Police Officer shall cause to be delivered or mailed to the owner of the property upon which the conditions exist a notice stating the reasons why the conditions may constitute a violation and that a hearing will be held before the Town Clerk at a place therein fixed, not less than ten (10) nor more than thirty (30) days after the delivery or mailing of the notice. The owner or any party in interest shall have the right to file an answer to the notice and to appear in person, or otherwise, and give evidence at the hearing. Any person desiring to do so may attend such hearing and give evidence relevant to the matter being heard. The rules of evidence prevailing in courts of law or equity shall not be controlling in such hearings. (See Amendments Chapter 7)

Section 3 Order of Abatement. If a determination is made that such conditions constituting a public nuisance exist, the Town Clerk shall notify, in writing, the owner of the premises in question of the conditions constituting such public nuisance and shall order the prompt abatement thereof within fifteen (15) days from the receipt of such written notice.

Section 4 Appeal. Any decision of the Town Clerk may be appealed to the Town Council of the Town of Elk Park. Such appeal must be submitted in writing within ten (10) days after receipt of the decision of the Town Clerk. The filing of an appeal stays all enforcement proceedings until such time as the Town Council makes a final decision.

Section 5 Removal of Nuisance: If the owner, having been ordered to abate such a violation fails, neglects, or refuses to abate or remove the condition constituting the nuisance within 10 days from receipt of said order, shall be subject to a civil penalty in the amount of \$100.00. Notice shall be given by certi-

ified mail sent to the last known address of the violator or Chief of Police. Each day that a violation continues to exist shall be considered to be a separate violation. However, if the penalty is paid within 10 days, the penalty may be reduced by 50%. The town may recover against the offender in a civil action in the nature of debt if the offender has not paid the penalty within 30 days of the time he has been cited for violation of the ordinance. (Amended August 21, 2017)

Section 6 Cost of Removal Charged to Owner. 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 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 receipt thereof. This section applies on to the removal of nuisances which are in violation of Article III.

Section 7 Liens. In the event charges for the removal or abatement of a public nuisance are not paid within thirty (30) days after the receipt of a statement of charges as provided for in Section 3 of this Ordinance, such charges shall become a lien upon the land or premises where the public nuisance existed and shall be collected as unpaid taxes, as provided in G. S. 160A-193. This section applies on to the removal of nuisances which are in violation of Article III.

Section 8 Sever ability. If any section of this ordinance is held to be invalid or unenforceable, all other sections shall nevertheless continue in full force and effect.

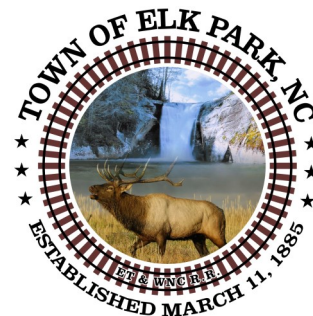
Section 9 Effective Date. This ordinance shall be in full force and effect from and after the date of its adoption.

Adopted this, the 7th day of November 1994

Mayor

ATTEST:

Town Clerk



CHAPTER 7
AMENDMENTS

ARTICLE 1.

Amendment for Chapter 6, Article IV, Section 2 Hearing. Motion was made to admen Article IV to state "That any person in violation shall have after delivery of complaint fifteen (15) days to correct the situation. Then the Police Officer will do another investigation and see if the Plaintiff had complied. Then, if the Plaintiff has not complied the Town Clerk will have a hearing. The Police Officer and Clerk will document all findings and procedures taking." Tommy Norman made the motion to amend the Ordinance and Frank McKinney seconded the motion. All in favor.

Meeting of August 7, 1995. Approved at regular meeting September 11, 1995.

ATTEST:

Town Clerk

Mayor



CHAPTER 8

ANIMAL CONTROL ORDINANCE

Section 1. Purpose.

Pursuant to the authority granted by North Carolina General Statute 160A-186, this Animal Control Ordinance is enacted to protect the public from unvaccinated, stray, roaming or dangerous dogs, and to make unlawful acts of dogs that interfere with the enjoyment of property or the peace and safety of the community.

Section 2. Definition of Terms. As used in this Ordinance

- (a) "Dog" shall mean both male and female of the canine species.
- (b) "Owner" shall mean any person, firm, association or corporation owning, keeping or harboring a dog.
- (c) "Animal at Large" shall mean any dog off the premises of his owner and not under the immediate control of his owner or his custodian. A dog without a physical restraint (i.e. leash) that fails to immediately respond to the verbal commands of his owner or his custodian shall be deemed to be "not under immediate control."

Section 3. Nuisances Prohibited.

It shall be unlawful for any owner to keep or harbor a dog within the corporate limits of the Town of Elk Park that is a public nuisance. Public nuisance is defined to be:

- (a) Any animal found at large.
- (b) Any dog that is off the premises of his owner and which chases, threatens, snaps at, or attacks a person or motor vehicle.
- (c) Any dog which turns over a garbage container, or damages a garden (flower or vegetable);
- (d) Any dog which excessively or continually barks while outdoors.

Section 4. Enforcement.

- (a) Any violation of Section 3 of this Ordinance shall subject the owner of the dog to a civil penalty in the amount of \$100.00.
- (b) In the event that a violation of Section 3 causes any type of physical injury to a person, the owner of the dog causing said injury shall be subject to a civil penalty of \$500.00, plus court costs and attorney's fees, for each such violation, instead of the \$100.00 penalty per violation described in subsection 4 (a) above, to be recovered by the Town.

(c) Any dog that (1) is off the premises of his owner, and (2) chases, snaps at or attacks a person, and (3) causes physical injury to a person, more than once, shall be destroyed.

(d) Notwithstanding subsections (a) through (c) above, this Ordinance may be enforced by appropriate equitable remedies issued from a court of competent jurisdiction.

(e) In the event it is necessary for the Town to institute a civil action to collect a civil penalty for a violation of any provision of this Ordinance, the offender shall pay all court costs and reasonable attorney's fees incurred by the Town.

Section 5. Separability.

It is the intention of the Town of Elk Park that each separate provision of this Ordinance shall be deemed independent of all other provisions herein and that if any provision of this Ordinance is declared to be invalid, all other provisions thereof shall remain valid and enforceable.

Section 6. Effective Date.

This Ordinance shall become effective on

Adopted this, the

Attest;

Mayor

Town Clerk



CHAPTER 9
WATER AND SEWER USE ORDINANCE
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ARTICLE I.- WATER SYSTEM REGULATIONS.

Section 1-1. Definitions.

The following words, terms, and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adjunct Customer means any individual, family, business or institution who would typically be required to have his or her own meter to receive service, but who, with prior approval of the Town, is allowed to connect onto the Town's water system through the meter of another Customer or to receive water through a meter assigned to another Customer.

Applicant means the person, firm or corporation applying for water/sewer service from the Town by extension or connection, who shall be the Customer or developer or his duly authorized agent.

Application for connection/extension means a written application requesting water/sanitary sewer service through an existing or new water/sanitary sewer connection.

Connection means a physical tap onto the water/sanitary sewer system which effects water/sanitary sewer service.

Connection Fee shall mean the fee charged the Customer by the Town for installing the necessary lines and meter according to The Town of Elk Park Water and Sewer Fee Schedule.

Customer shall mean any individual, family, business or institution that hooks on to the Town's water and/or sewer system and uses the same.

Developer means the owner of a development or his duly authorized agent.

Extension means a construction, alteration, enlargement or expansion of water/sanitary sewer facilities required to service customers according to the terms and conditions set forth in this Ordinance.

GPD means gallons per day.

GPM means gallons per minute.

Main means pipe(s) owned by or to be owned by the Town used for the purpose of conveying water or sewer to/from the customer's service connections.

A **Policy** means water/sanitary sewer policies of the Town and all duly adopted amendments and additions thereto.

System means the water/sanitary sewer lines and facilities owned by the Town.

Town means the Town of Elk Park, North Carolina.

Town employee means an employee of the Town of Elk Park, North Carolina or a person, firm, corporation or consultant under contract with the Town.

Section 1-2. Water and Sewer Connections Required.

(a) At such time as a Town sewer line becomes available to a parcel of property being served by either a private septic system or a private wastewater disposal system, the property owner must make application and connect the structure(s) using sewer services to the Town sewer line within ninety (90) days after receipt of notice from the Town. The property owner must pay the connection fee then in effect when application for connection is made.

(b) At such time as a Town water line becomes available to a parcel of property being served by a private well, the property owner must connect the structure(s) using water to the Town water line within ninety (90) days after receipt of notice from the Town. The property owner must pay the connection fee then in effect when application for connection is made.

Section 1-3. Permit for Connection Required.

No person, firm or corporation shall connect with the water system or the sewer system of the Town until they shall have made application for connection in writing to the Town Clerk. This application shall be made before any part of the drainage system of the house or other connection shall have been laid or constructed. The application shall include a description of the location of the lot or parcel along with any street address, the name of the person, firm or corporation making said application, name of the owner, mailing address of the owner, service address of the account, date of application, and any other information that may be required by the Town in processing the application.

Section 1-4. Separate Connections Required.

Each individual business or residential building or structure shall install a separate water and sanitary sewer connection.

Section 1-5. New Lines: Notice to Connect.

Whenever any new lines are laid along or within any street, avenue, alley or easement in the Town and are ready for use, it shall be the duty of the Town to notify the owners or agents of all houses or buildings situated on the lots abutting upon, or accessible to that street, avenue, alley or easement, to connect all wall closets, bathtubs, lavatories, sinks and the like, upon their respective lots with those sewer lines within ninety (90) days after date of the notice, and to connect within the same time to the Town's water system and maintain adequate water supply.

Section 1-6. Septic Tanks.

It shall be unlawful for any person, firm or corporation to build, construct or install any septic tank or private treatment system on any property within the Town limits to which the public sanitary sewer system is accessible. Where no sewer is available, septic tanks must be provided in accordance with the requirements of the Avery County Health Department.

Section 1-7. Private Water Supply Regulated.

It shall be unlawful for any person, firm or corporation to furnish, supply, or provide, for gain or profit, any water from a private well, reservoir or pumps in or to any property within the corporate limits. Where no public water is available, private wells shall be permitted to serve the property on which it is located.

Section 1-8. Use of Town Water.

(a) No consumer will be allowed to supply or sell water to other persons, families or corporations, nor shall any person take or carry away water from any hydrant.

(b) The fire hydrants are for the use of the Fire Department for fighting fires, and are not to be used by any unauthorized person for any purpose, without the permission of the Town.

Section 1-9. Shut Off Valves.

- (a) On all new connections the property owner shall install and maintain a shut off valve on his or her side of the meter, for the control of water service by the property owner/customer. No one other than a Town employee shall use the shut off valve on the Town's side of the meter.

Section 1-10. Service Disconnection/Reconnection.

- (a) Should Town employees be required to disconnect or reconnect service where property owners do not have a shut off valve, a fee will be charged in accordance with The Town of Elk Park Water and Sanitary Sewer Service Fee Schedule. The first requested disconnection shall be free of charge; thereafter all fees shall be charged in accordance with The Town of Elk Park Water and Sanitary Sewer Service Fee Schedule. Only one (1) free request shall be allowed per twelve (12) month period. Town employees are available between the hours on 8:00 AM and 3:30 PM, Monday through Friday, holidays excepted. Additional fees shall apply for Town disconnection/reconnection services at all other times.

Section 1-11. Electric Power Connection Required.

In order to prevent extensive damage to property and an unnecessary demand on the public water supply, it is imperative that all Customers maintain electric power to plumbed structures. In cases where the Town is made aware that electric service to such a structure has been voluntarily or involuntarily disconnected, water service may be disconnected by the Town and the appropriate termination fee billed to the Customer.

Section 1-12. Prohibited Activities.

A Customer shall not:

- a. Supply or sell water from the Town's system to other persons or carry water away from any hydrant, public water fountain, or other such public outlet without specific authorization from the Town;
 - b. Manipulate, tamper with or harm in any manner whatsoever any water line, sewer line, main or appurtenance or any other part of the water or sewer system, including, but not limited to, any testing or inspection device used to measure the character or concentration of wastes discharged into the sanitary sewer system;
 - c. Tamper with the water meter so as to alter the true reading for the amount of water consumed;
 - d. Attach or cause to be attached any connection to the water line before the water meter;
- and,
- e. Knowingly make any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this Chapter.

Section 1-13. Work on System to Comply with Town Requirements.

All work on the water and sewer system and all connections or disconnections thereto shall be performed by the authorized employees of the Town or their representatives or plumbers approved by the Town. All work shall be performed in accordance with any applicable State and Town Plumbing codes and

such amendments thereto that the Town may from time to time adopt or such non-conflicting standards or requirements that may be prescribed by the Town.

Section 1-14. Termination or Interruption of Service by Town.

A. The Town may terminate service for any of the following reasons:

1. Refusal by the Customer to pay in full an account within 30 days after the billing date;
2. Prevention of fraud or abuse by a Customer; and,
3. Failure of the Customer to comply with any of the provisions of this Ordinance.

B. Before service is terminated, the Customer shall be notified of the proposed termination and given an opportunity to be heard on the matter as provided in this Ordinance.

C. The Town reserves the right to discontinue or interrupt service temporarily for any of the following reasons:

1. Emergency repairs;
2. Insufficient supply or treatment capacity;
3. Strike, riot, flood, accident, act of God, or any other unavoidable cause; and,
4. The direction of public authority.

D. The Town shall make a good faith effort to notify affected Customers before service is discontinued or interrupted as provided in Subsection C. However, the Customer, by making application for service, agrees to hold the Town harmless from liability for any damages that may occur due to discontinuance or interruption services for the above mentioned causes.

E. The Town reserves the right, upon action by the Town Council, to discontinue its water and/or sanitary sewer service to any Customer whose property is outside the corporate limits of the Town of Elk Park upon giving a minimum sixty (60) day written notice of its intent to terminate water and/or sewer service.

Section 1-15. Notice of Proposed Termination of Service and Right of Hearing.

A. Before the Town terminates a Customer's water service, the Town shall send the Customer a notice as follows:

1. Setting forth the appropriate rule and how the Customer violates it;
2. Stating the action the Customer must take to comply with the rule;
3. Giving the Customer ten (10) days from the receipt of the notice to such action;
4. Informing the Customer he has a right to appeal this action and to have a hearing before the Town Board;
5. Giving the Customer (10) days from the receipt of the said notice to request in writing such a hearing;
6. Informing the Customer that if the necessary action is not taken, or if an appeal is not filed within the specified time, the Customer's water service shall be terminated.

Section 1-16. Hearing.

- A. The hearing provided for in the previous section may be held by phone or, at the request of the Customer, the Customer may meet in person with the Town Official at the official's office (as specified in the notice described in Section 1-11.)
- B. The hearing shall be conducted formally. The Customer shall be given every reasonable opportunity to bring to the attention of the designated official information that bears upon the reasons for the proposed termination.
- C. If the Customer is dissatisfied with the result of the hearing, the Customer may appeal the official's decision to the Council. The Town Council's decision shall be final.

Section 1-17. Deposit Required to Stay Termination.

Termination of Service for nonpayment of bills shall not be stayed pending the outcome of the hearing procedures set forth in Section 1-15 unless the Customer pays to the Town a deposit equal to the amount of the disputed bill. Depending on the outcome of the hearing process, this deposit shall be applied toward payment of the bill or refunded, as appropriate.

Section 1-18. Procedure for Service Termination and Reinstatement.

- A. Water and sewer service termination shall be affected only by authorized agents of the Town.
- B. When service is terminated, discontinued or interrupted for any reason as set forth herein, no person other than a duly authorized agent or employee of the Town may cause, suffer or permit the resumption of service.
- C. When service is terminated for non-payment of bills, the service application deposit shall be applied to the outstanding bill.
- D. If there are deposit funds remaining after the deposit is applied to the outstanding bill, the excess shall be refunded to the Customer. If a portion of the bill remains outstanding, the Town may proceed to collect the balance in the usual way provided by law for the collection of debts.
- E. Before service will be reinstated, the Customer shall be required to make full payment of any charges still outstanding on his account. In addition, the Customer shall also increase his deposit with the Town with an amount equal to his application deposit, or the amount of the bill outstanding at the time of termination, whichever is greater.
- F. A charge for reconnecting service shall be made pursuant to the Town's Water and Sewer Service Fee Schedule.
- G. Notwithstanding the provisions of Section 1-14 (Termination) and Section 1-15 (notice of Proposed Termination), the Town Shall and Will terminate water and/or sewer Service to any customer who fails to pay a water and/or sewer within Thirty (30) days of the mailing of the same. A certification of mailing of the said bill by the Town Clerk will be sufficient proof of mailing; not proof of receipt of the said bill or statement will be required before termination of services is implemented.
- H. With regard to customer leaks in the water system on the customer's property, the Town will consider and grant an adjustment to the customer if the customer repairs the leak within Seven (7) days of being notified of its existence by the Town. If the leak is not fixed within Thirty (30) days by (customer, the Town will disconnect water services until the leak is repaired to the satisfaction of the Town. The Town may consider an additional amount of time for the said repairs if it is determined that the weather or soil

conditions are such that the repairs cannot be completed with the Thirty (30) days.

(Section G & H were amended on August 23, 2021)

(Section H amended on January 24, 2022)

Section 1-19. Abridgment or Modification of Rules.

- A. No promise agreement or representation of any employee of the Town shall be binding upon the Town except as it shall have been agreed upon in writing, signed and accepted by the acknowledged officers of the Town.
- B. No modification of rates or any of the rules and regulations shall be made by any agent of the Town.

Section 1-20. Penalty.

- A. In the event the Customer fails to correct any violation of the Ordinance within the time set forth in the notice provided by the Town, such Customer shall be subject to a civil penalty in the amount of \$100.00, to be recovered by the Town. Violators shall pay the penalty within seventy-two (72) hours after receipt of the notice of the violation. If the penalty is not paid within such time, the Town may recover such penalty, and all subsequent accruing penalties, in a civil action.
- B. Each day's continuing violation of any provision of this Ordinance shall be a separate and distinct offense.
- C. In the event it is necessary for the Town to file a civil action to enforce this Ordinance, the violator shall pay all costs, including attorneys' fees, incurred by the Town.
- D. If any Customer causes any damage to the Town's water and/or sewer systems, such Customer shall be liable to the Town for the full amount of said damages.

Section 1-21. Removal of Meter.

The Town reserves the right to remove the water meter of a Customer after service has been discontinued due to reason (1), (2), or (3) set forth in Section 1- 14 (A) above. Said meter will be reinstalled only after the Customer has:

- (a) Corrected the conditions which were responsible for the removal of the meter.
- (b) Paid the current water tap and all other unpaid charges.

Section 1-22. Refusal of Service.

The Town may permanently refuse service to any consumer who tampers with a meter or other measuring device, or who turns his/her water back on after the Town had disconnected the water service.

ARTICLE II.-Rates and Charges.

Section 2-1. Rate Schedule for Water and Sewer Usage.

The Town Council shall adopt a rate schedule to be amended by them from time to time as necessary. All Customers shall be charged for water and sewer use based on the rate schedule in effect at the time. The current rate schedule is attached hereto as The Town of Elk Park Water and Sewer Service Fee Schedule and is incorporated herein by reference.

Section 2-2. Customers Outside Corporate Limits.

Rates for water and/or sewer service to properties outside the corporate limits shall be double the prices set out for properties inside the corporate limits, as indicated in The Town of Elk Park Water and Sewer Service

Fee Schedule.

Section 2-3. Owners of More than One House.

- A. In cases where property owners have more than one house, business, apartment, dwelling unit or establishment on one water meter, the owner shall be charged the water rate per consumption according to the meter reading, or minimum rates times the number of houses, businesses, apartments, dwelling units or establishments on the meter, whichever is more. The owner shall be charged a sewer rate for each house, business, apartment, dwelling unit or establishment using the Town's sewer system. The above rates shall be charged regardless of the occupancy status of individual houses, dwelling units or businesses, occupied or vacant.
- B. Property owners having more than one house, business, dwelling unit or establishment serviced by the same meter may obtain separate meters and billing for each such unit or establishment by paying connection fees for each unit or establishment as indicated in Section 2-1.
- C. In all new construction, separate service connections shall be installed in accordance with Section 1-3.

Section 2-4. Reserved.

Section 2-5. Billing Procedures; Account Information.

- A. No water or sewer connections shall be made until such time that application has been made and all connection fees paid or after an acceptable arrangement has been made with Town Clerk. In projects requiring other permits, no connections shall be made until such time that all permits required by the Town of Elk Park, County, State or Federal agencies have been obtained.
- B. The Town of Elk Park may reject any application for service not available under the Town's Water and Sanitary Sewer Service Fee Schedule, or service requests determined to be detrimental to the waste treatment process due to the volume, character or content of discharge.
- C. The Town of Elk Park shall reject any applications for connection or application for service when the applicant is delinquent in payment of bills incurred for service supplied at any location.
- D. Customers requesting the water and sewer services or transfer of these services shall pay, at the Town office, utility service deposits in the amount required by Ordinance at that time. Upon discontinuance of the water and sewer services, and after the Customer has paid their final bill for those services, the deposit will be returned to the depositor upon request. No interest will be paid on water and sewer deposits.
- E. All service accounts shall be billed at least a minimum monthly charge as specified in The Town of Elk Park Water and Sanitary Sewer Service Fee Schedule, regardless of the account status, consumption or occupancy of the structure. Customers shall be required to either:
 - 1) Connect and pay the monthly charges incurred when service is available, OR
 - 2) Elect to pay the monthly minimum charge in lieu of connecting as an availability charge, OR
- F. Availability fees shall be charged to Customers who deny Town access to install services.
- G. If it is necessary for a Customer to install a sewer pump in order to connect to the Town's sanitary sewer

- system, Customer may be allowed 60 days to install sewer pump, subject to Town Council approval.
- H. Accounts for sprinkler systems only shall not be billed a minimum monthly charge nor shall water utilized in the extinguishment of fire be billed to the Customer if said sprinkler system is separated from all other plumbing fixtures and appurtenances and is metered separately from all other consumption or usage. Any water passing through sprinkler systems due to negligence, carelessness, frozen pipes or improper maintenance shall be billed in accordance with the rate schedule in effect at the time.
 - I. Situations requiring that special arrangements be made for the payment of past due accounts shall only be allowed in dire situations as approved solely by the Town Council.
 - J. Customers will be billed once per month. The bill or statement will show the meter readings, or in the event the meter has not been read due to inclement weather or other causes, it shall be indicated on the bill that the reading or usage has been estimated.
 - K. As a general rule, bills will be mailed by the Town prior to the third day of each month. Bills are past due and delinquent on the 15th day of each month. If the 15th day falls on a weekend or holiday, bills will be past due and delinquent if not paid in full by the end of the next business day. The Customer shall be liable for a late charge of 25% of the outstanding balance. After an account becomes delinquent, the Town will send the Customer a notice of delinquency. Service may be discontinued by the Town twelve (12) days after the Customer's mailing of the notice if the account is not paid in full.
 - L. If any Customer shall have service discontinued by the Town for nonpayment, (1) a deposit equal to the basic deposit for the particular service or (2) the amount of the bill outstanding at the time of termination; or whichever is greater shall be collected prior to reconnection of service. In addition, all past due balances, penalties and appropriate reconnection fees shall be satisfied prior to reconnection of service.
 - M. After six (6) months of non-delinquent payments to the town, the Town will refund the extra payment that was collected at time of disconnect as stated in subsections (I).
- (Sections (K) (L) (M) amended January 24, 2022)**
- L. Not less than three (3) days notice must be given in person or in writing at Town Hall, to discontinue service for a change in occupancy. The outgoing party shall be responsible for all water consumed up to the time of departure or the time specified for departure, whichever period is longer.

ARTICLE III.-Town, Property Owner, Customer, and Adjunct Customer Responsibilities; Liabilities.

Section 3-1. Town Services: Connections.

- A. Where service is available, and upon receipt of all necessary connection and availability fees, the Town shall extend service lines to serve properties as follows:
 - a. In cases where the distribution or collection lines run in a roadway immediately adjacent to the property to be served, the Town shall run a service line from its water and/or sewer main to the property line.
 - b. In cases where the distribution or collection lines from which service is to be obtained is located in a street separated from the property to be served by the property of another, the Town shall run the service line from its distribution or collection line to the property line of the lot located adjacent to the road in which the main distribution or collection line is located.
- B. Generally, service lines, meters, etc., installed by the Town to serve properties will be located at a point along the property line mutually agreed upon by the Town and property owner. However, in such cases where mutual agreement cannot be reached as to the most suitable location, the decision will rest with the

Town.

C. The Town shall only be required to run a service line from the Town's distribution line to the agreed upon location for the Customer's meter if the Customer's nearest property line is adjacent to a public right-of-way. When the Customer's nearest property line is not adjacent to a public right-of-way, the Customer is solely responsible for installing and maintaining all piping and other required facilities and for acquiring and providing proof of all necessary easements from the Customer's property to the appropriate public right-of-way. In every case it is the Customer's responsibility to connect and maintain all piping and facilities from the meter to the Customer's plumbing system.

D. When the Town installs two or more meters on the same property for different Customers, they shall be closely grouped, but shall be labeled so as to identify to which Customer each meter applies.

E. The Town shall not be responsible for the following matters or damages. The failure to mention a particular type of claim or damage in the following paragraphs shall not authorize liability on the part of the Town, does not constitute a waiver of governmental or sovereign immunity, and no responsibility or liability may be inferred by its exclusion. Among others:

(1) The Town is not responsible for inspecting the Customer's or Adjunct Customer's piping or plumbing apparatus and facilities and is not responsible for the condition of that piping, plumbing or facilities. A Customer's piping or plumbing apparatus and facilities consists of all piping or apparatus from the Customer's side of the meter on the Customer's property or on property the Customer has crossed.

(2) The Town is not liable for damage of any kind whatsoever resulting from water or the use of water on the Customer's or adjunct Customer's premises, unless the damage results directly from negligence on the part of the Town and is covered by the Town's liability insurance coverage. The Town is not responsible for damage done by or resulting from any defect in the piping, facilities, fixtures or appliances on the Customer's or adjunct Customer's side of the water meter. The Town is not responsible for damage caused, wholly or in part, by the negligence of the Customer, adjunct Customer, or third parties or damage caused by forces beyond the control of the Town.

Section 3-2. Property Owner, Customer and Adjunct Customer Responsibilities

- A. The property owners shall be responsible for connection all plumbing fixtures, piping, and appurtenances on the property with the service lines installed by the Town. Once installed, the property owner shall be responsible for maintaining his or her water service line from the property or structure being served to the meter. Similarly, the property owner is responsible for the maintenance of the sewer service line from the property or structure being served to the sewer service line extended by the Town. The location of all sewer lines must be approved by the Town. All sewer lines must be buried unless the Town determines it is not feasible to do so. If any lines are not buried, they must be camouflaged from view.
- B. The Town neither guarantees Customers uninterrupted service, nor does it assume any liability for damage to private property due to interruptions in service. All water and/or sewer utility customers are urged to ensure that their plumbing systems and appurtenances are adequately equipped with back-flow prevention devices or vacuum relief valves as necessary.
- C. Every Customer and Adjunct Customer shall arrange for piping on the premises to be installed so that the connections to the Town's meter, lines or mains are conveniently located.

- D. When a meter is installed on the premises of a Customer, the Customer shall provide and maintain a suitable place to locate the meter so that it is unobstructed and accessible at all times to the meter reader.
- E. Every Customer and Adjunct Customer shall furnish and maintain a private cut-off valve on the Customer's side of the meter.
- F. Every Customer and Adjunct Customer shall maintain all Town piping, apparatus and facilities within the Customer's control in proper condition.
- G. Every Customer and Adjunct Customer shall protect any Town property placed on the Customer's or Adjunct Customer's property and shall only permit access to it by authorized representatives of the Town.
- H. Every Customer and Adjunct Customer shall provide the Town's representatives access to his or her property, as necessary for the Town to maintain the Town's water and/or sewer lines, to install or remove Town property, to read or test the Customer's water and/or sewer meter(s) and for any other purpose reasonably necessary for the Town to efficiently provide service to the Customer and Adjunct Customer, and to maintain and protect its system
- I. If so requested, every Customer and Adjunct Customer shall grant or convey to the Town a perpetual easement and right-of-way across the Customer's property wherever the perpetual easement and right-of-way is reasonably needed by the Town to effectively furnish and maintain service to the Customer. The refusal of a Customer, Adjunct Customer, or applicant for service as either to grant or convey the Town an easement is a basis for denying or discontinuing service to a Customer or Adjunct Customer
- J. The Customer is responsible for keeping the Town informed at all times of the Customer's current billing address. An Adjunct Customer must likewise provide the Town with a contact address and telephone number, and must keep such information current.
- K. In the event that any loss or damage to the property of the Town is caused by the Customer, Adjunct Customer, their invitees, agents or employees, or in the event the negligence or any wrongful act by the Customer, Adjunct Customer, their invitees agents or employees results in any accident or injury to persons or property for which the Town is held responsible, the Customer must pay the cost of the necessary repairs or replacements to the Town; and the Customer shall assume any liability otherwise resulting from the Customer's or Adjunct Customer's wrongful actions or omissions. The actual amount of such loss or damage and/or the actual cost to the Town of repairs shall be added to the Customer's bill; and if not timely paid, service to the Customer and any Adjunct Customer may be discontinued by the Town.
- L. By applying for and accepting service from the Town, the Customer and Adjunct Customer agree to hold the Town harmless from liability for any damages that may occur due to a temporary discontinuance or interruption of service by the Town for emergency reasons, whether or not the Customer or Adjunct Customer receives prior notification of the discontinuance or interruption.

ARTICLE IV. – Water and Sewer Extensions

Section 4-1. General Principles.

The planning and extension of water and sewer systems of the Town of Elk Park shall be accomplished in accordance with the following general principles:

- a. Extensions shall be made to promote the orderly growth of the community. The minimum distance for any extension of a water/sanitary sewer main shall be determined by Town Council. In general, the minimum distance for extensions shall be one platted block or, in the case of water mains, from main line valve to main line valve; and in the case of sanitary sewer extensions, from manhole to manhole.
- b. The size of water/sanitary sewer mains to be installed, and the other required system facilities shall be

determined by the Town Council in accordance with the recognized standards and accepted engineering practices and design, and in accordance with applicable system plans adopted by the Council.

- c. The Town shall be responsible for the maintenance, operation, control and ownership of all water and sewer facilities.
- d. Developers of subdivisions shall be responsible for the full cost of installing utilities within their own subdivisions, and for the full cost of any mains or outfalls required to connect said subdivisions to the water/sanitary sewer systems of the Town existing at the time. This provision shall apply to all subdivisions whether within or outside of the corporate limits.

Section 4-2. Application: Approval.

Application for the planning and extension of water/sanitary sewer systems of the Town of Elk Park shall be accomplished in accordance with the following general principles:

- a. Any property owner or owners desiring water/sanitary sewer service shall apply in writing to the Town Council requesting the extension of water/sanitary sewer service. No request for the extension of services shall be considered unless submitted in writing in accordance with this Ordinance.
- b. All applications shall be accompanied by a nonrefundable processing fee in the amount set forth in the Town's rates, fees and charges schedule.
- c. The applicant shall be required to submit as part of the application, and prior to approval, such information, plans, specifications, or other data as may be required to adequately determine if the requirements of this Ordinance are to be met.
- d. Prior to final approval by the Town, the applicant shall furnish to the Town all necessary information, reports, plans and specifications and obtain all required permits from other units of government and their agencies.
- e. When application is made for a water/sanitary sewer extension to serve an area or development that is planned as part of a larger development project or subdivision, all of which is not to be developed at the time application is made, the owner or owners shall submit plans in sufficient detail in order to determine the size and type facilities which will be necessary to serve the entire development or subdivision when completed.
- f. Upon receipt of a valid application under this section, the Town Clerk shall submit such application to the Town Council for consideration. Each application shall be considered on an individual basis.
- g. No extension to the water/sanitary sewer system of the Town shall be made, and no application approved, except in accordance with the requirements of this Ordinance.
- h. The Town Council reserves the exclusive right to approve or disapprove a request for service.
- i. The receipt by the Town of an application for an extension or connection shall not obligate the Town to render the service applied for.

Section 4-3. Financing Extensions Within the Corporate Limits.

A. Extensions to Existing Lots, Parcels or Developed Property.

- 1. When an application is received requesting the extension of water or sanitary sewer service or both to serve property within the corporate limits, which is developed or where streets have been previously dedicated and accepted by the Town, and where the area is not part of a new subdivision, the Town or an agent of the Town shall estimate the cost of the project and present the application for the extension, including the estimated cost and other required information to the Council for consideration. If the application is approved by the Town Council, subject to the availability of funds, the Town may install the

water/sanitary sewer extensions. Any such extension may be financed in accordance with this Section.

2. When an approved water or sanitary sewer extensions project has been completed and the total cost thereof has been determined, 100% of the total cost of the water or sanitary sewer extensions or both may be assessed against owners of benefited property. In determining the basis for making the assessment, the Council may consider any pertinent information regarding the particular extension, and may utilize any formula or basis permitted by G.S. 160A-218 and under the authority granted to the Town by G.S. 160A-216.
3. Any property owner or owners shall have the opportunity to pay assessments after the assessment roll is confirmed rather than paying his or their share in equal annual installments with interest as required by the Statute.
4. When the town determines that it is advisable to install larger size lines or facilities than are necessary to serve the benefited property, the difference in the cost of the larger size facilities over the cost of the facilities required to serve the benefited property the extensions shall be paid by the Town and excluded from the total cost to be shared by the property owner(s) and the Town as provided herein.

B. Extension by the Council's Initiative. Nothing in this Ordinance shall prevent the Council from extending water or sanitary sewer mains or both within the corporate limits on their own initiative without receipt of an application from property owners, and to assess the cost of such extensions in accordance with Subsection (a) above, when, in the opinion of the council, the general public interest requires such extensions of service.

Section 4-4. Requests for Water and Sewer Extensions Outside of the Corporate Limits.

In reviewing a request made by an applicant for the Town to extend the Town's water and/or sewer system beyond the Town's corporate limits, the Town Council may consider the following factors:

- (a) The capacity of the Town's current systems;
- (b) Public health and safety;
- (c) Orderly growth;
- (d) Environmental conditions;
- (e) Capital improvement plans;
- (f) Annexation plans;
- (g) Master plans;
- (h) Zoning;
- (i) Fiscal impact on the town;
- (j) Effect on service to existing customers; and
- (k) Any other factor as deemed appropriate by Town Council.

It may be the policy of the Town to require the extension of both the water and sewer systems jointly to properties outside the corporate limits when a person requests the use of either one of the systems. The Town may require the extension of sewer mains along with water lines, except in such cases as the Council finds it economically impractical to install both; and in such instances, the Town may require the dedication of easements for water and/or sewer lines simultaneously with the extension of water and/or sewer mains, so that the additional mains may be installed at a later date.

Section 4-5. Water and Sewer Extensions Outside of the Corporate Limits Application: Approval.

Application for the planning and extension of water/sanitary sewer systems outside of the corporate limits of the Town of Elk Park shall be accomplished in accordance with the following general principles:

(a) All out of town water/sanitary sewer service extension agreements shall be voted on by the Town Council meeting in formal session. The criteria for their decision shall be based on the Town Council's recommendations, standing of the request as it relates to the priorities listed in Section 4-4 (a-k) and/or the exclusive right of the Town Council to deny the request for any reason whatsoever. The majority vote of the Town Council shall be the decision. If the Town Council places conditions on the approval of the application, the Town Council may place a time limit on the applicant to fulfill the conditions. If the conditions are not met within the time limit, the approval is null and void. Extensions shall not be scheduled for construction until the applicant has complied with all conditions and contractual obligations.

(b) If all applicable charges have been paid, an out of town water/sanitary sewer service extension agreement is valid for 12 months. If the applicant has not physically connected with the system within 12 months, then the permit is void unless the applicant pays the applicable monthly charge for the service shown on the plans and specifications and approved by the Town Council.

(c) An out of town water/sanitary sewer service extension agreement can only be transferred if approved of by the Town Council acting in formal session.

(d) The applicant for extension shall employ, at his expense, a state registered professional engineer to prepare plans and specifications for the proposed extension; such plans are to be prepared in accordance with the Town's standard specifications and approved by the Town and the North Carolina Department of Environment and Natural Resources prior to installation.

(e) The application shall be submitted to the Town Council no later than 90 days prior to anticipated construction date.

(f) Such application shall be governed by all regulations and ordinances made by the Town for the control, maintenance and protection of its utilities systems in force at the time that the applications are made or at any time thereafter. Such extensions shall be made at the sole expense of the petitioner, unless otherwise agreed to by the Town Council.

(g) The receipt by the Town of an application for a water/sanitary sewer service extension or connection shall not obligate the Town to render the service applied for.

(h) Upon receipt of a valid application under this section, the Town Clerk shall submit such application to the Town Council for consideration. Each application shall be considered on an individual basis.

(i) In addition to the requirements of this section, all applications for water/sanitary service outside of the Town's corporate limits shall be made in the same manner and under the same requirements as provided for in this Ordinance.

Extension by the Council's Initiative. Nothing in this Ordinance shall prevent the Council from extending water/sanitary sewer mains outside of the corporate limits on their own initiative without receipt of an application from property owners when, in the opinion of the Council, the general public interest requires such extensions of service.

Section 4-6. Financing Extensions to Subdivisions and Properties Outside of the Corporate Limits

The financing of extensions of water/sanitary sewer service to properties located outside of the corporate limits or to subdivisions for which the extension of service has not been approved as of the date of adoption of this Ordinance shall be performed in accordance with the provisions of the Ordinance and other applicable Town Ordinances.

(a) All applications for water/sanitary sewer extensions to serve properties located outside of the corporate limits or to serve subdivisions, for which an application for extension has not been approved as of the date of this Ordinance, shall be made in the same manner and under the same requirements as provided for in this Ordinance.

(b) If an application is approved by the Town Council, the owner or owners shall be required to pay 100% of the total cost of all extensions. When the Town determines that utility lines larger than the required minimums established by the Town are necessary to serve only the property of the applicant, the applicant shall install such larger lines at his sole expense. Any decision to participate in the cost of larger size mains will be determined by Town Council, and will be made on a case by case basis. No reimbursement by the Town shall be made upon annexation and all water/sanitary sewer lines connected to the Town system and located outside of the corporate limits shall become the property of the Town at the time those facilities are connected, subject to prior inspection and acceptance by the Town.

(c) In the event the property for which application has been made for water/sanitary sewer service is contiguous to the corporate limits and provided that the property is not part of a subdivision which has not been approved as of the date of this Ordinance, the owner or owners may petition the Town for annexation, and in the event the property is annexed to the Town, extensions may be made to the property and the cost thereof financed in accordance with the requirements of this Ordinance.

(d) Prior to the construction of such water/sanitary sewer lines, the applicant shall advance to the Town the total estimated cost of such construction, as approved by the Town Council. In lieu of depositing funds, if the Town Council so agrees, the applicant may provide a no contest, irrevocable bank letter of credit from a banking corporation licensed to do business in the state and having an office in the county, or a performance and payment bond underwritten by a state licensed corporate surety company in lieu of a cash advance of the estimated cost of construction.

(e) A deed to the Town for water or sewer facilities installed which are located outside the corporate limits, the cost of which is borne by the applicant or property owners, shall be executed prior to the time any extensions provided for in this Ordinance are connected to the Town system.

Section 4-7. Specifications: Construction and Ownership.

All water/sanitary sewer extensions shall be constructed by a contractor who shall be subject to Town Board approval.

The applicant shall cause to be installed sufficient quantities of fire hydrants as to adequately serve any existing or proposed structures along an extension or connection. The location and spacing of fire hydrants shall be determined by any applicable state, county, and Town policies and codes. All waterline connections and extensions shall be sized to provide the required fire flow. Where adequate flow and capacity cannot be obtained at the point of connection, the applicant shall install a system designed to provide adequate water storage and flow capacity as required by this Ordinance and other applicable codes.

During installation, and before acceptance of any new extension, the Town, or its authorized representative, shall inspect, with or without notice to the applicant or the contractor, the construction or any part thereof to see that the extension has been built in accordance with the approved specifications. Upon the request of the Town, the applicant or contractor shall arrange suitable times for inspection with the Town, or the Town's authorized representative. An inspection fee not to exceed the actual cost of making the inspection shall be paid to the Town by the applicant prior to the acceptance by the Town of the facilities included in the extension.

Inspection of an extension by the Town does not consist of or imply supervision or approval of the work or materials in the extension, nor does such inspection by the Town relieve the applicant and/or the applicant's engineer of their obligation to inspect all aspects of the extension and certify that the extension complies with the approved plans and specifications. Neither the Town Council nor the Town assumes any responsibility for the work performed or materials supplied. The applicant is solely responsible for ensuring that the extension is completed in accordance with the approved specifications and drawings and indemnifies and holds harmless the Town, Town Council, and Town employees with respect thereto.

By receiving approval for an extension to the system, the applicant agrees to indemnify and hold the Town, Town Council, and Town employees harmless from all loss, cost, damage, liability or expense resulting from injury to any person or property arising out of the extension.

The applicant shall guarantee the entire extension or connection against defective materials and workmanship for a period of 12 months from the date of completion and acceptance by the Town for any claims arising out of defective materials and workmanship. The owner shall further warrant to the Town that all fees and liens have been paid by him or her such that there are no outstanding indebtedness remaining and holding the Town harmless in each instance.

Any water mains or sanitary sewer mains, lift stations, pumping station, etc., extended under the provisions of the Ordinance shall be installed and constructed in accordance with the approved plans, specifications and other requirements of the Town. Upon completion and subject to inspection and acceptance by the Town, all facilities installed under the provisions of this Ordinance, whether within or outside the corporate limits, shall become the sole property of the Town, and under its jurisdiction and control for any and all purposes whatsoever at the time those facilities are connected to the Town system. The property owner or owners shall grant to the Town such utility easement as the Town may require.

Upon completion of the construction project, the applicant shall submit to the Town as-built plans consisting of one set of reproducible plans and three copies, in both hard copy and digital format, and a statement certifying that this construction was completed in accordance with the approved plans and specifications. This statement shall be signed by the registered professional engineer and affixed with his professional engineering seal. Duly certified copies of this statement will be transmitted to the North Carolina Department of Environment and Natural Resources. Until such drawings are obtained and certification made as required by this subsection, no water service will be provided to any portion of the extension.

Section 4-8. Special Emergency Resolution.

If conditions so limit the system that unrestricted use may endanger the adequacy of the system, the Town Council, exercising its discretion in the protection of the public health, safety and welfare, may, by resolution,

adopt such emergency use restrictions and such additional regulations and restrictions, including increased rates, as are reasonably calculated under all conditions to conserve and protect the system. Emergency use regulations and restrictions shall remain in force and effect until the Town Council determines that the conditions requiring their imposition no longer exist.

ARTICLE V-Reserved.

ARTICLE VI.- Regulation of the Discharge of Harmful Substances into the Town’s Sewage System.

Section 6-1. Introduction.

The Town is required to comply with all Federal and State regulations and requirements permitting the collection, treatment, and discharge of wastewater through its wastewater treatment plant (WWTP). The Town has been issued an NPDES Permit which sets standards of acceptable sewage. The Town has been advised of concern arising out of State inspections of the WWTP and quality of effluent. The State of North Carolina Department of Natural Resources has recommended and provided model regulations which regulate and control discharge of petroleum-based oils and greases into the Town’s wastewater collection system.

Section 6-2. Regulations.

a) The discharge of substances which possess characteristics of sewage that may have a deleterious effect upon the sewage works, processes, equipment or receiving water, or which otherwise create a hazard to life or constitute a public nuisance is prohibited.

(b) Every industry, commercial activity, or institution which serves meals or washes pots, pans or dishes and has a grease discharge in excess of 50 mg/liter shall provide an adequately-sized grease trap to remove kitchen grease prior to discharging such waste into the Town’s wastewater collection and treatment system. Such grease traps shall be approved by the Town prior to installation, particularly as to size, design and location.

(c) All kitchen grease traps shall be located so as to be readily accessible for cleaning and inspection. The grease traps shall be maintained by the discharger at this or her expense in continuous and effective operation at all times. No other waste other than grease-laden wastewater shall enter the grease traps.

(d) Existing industry, commercial activities, or institutions required to install grease traps will have ninety (90) days to install such grease traps.

(e) Grease traps shall not be required for private living quarters or dwelling units.

(f) If waste possesses characteristics which in the judgment of the Town (1) have a deleterious effect upon the Town’s wastewater treatment system, or (2) create a hazard to life, the Town may:

1. Reject such waste;
2. Require pretreatment of such waste to acceptable condition for discharge to the public sewers.
3. Require control over the quantities and rates of discharge of such waste; and,
4. Require payment to cover the added cost of handling and treating the waste not covered by existing rates or taxes under provisions of the Town’s funding for sewage processing.

(g) If the Town permits the pretreatment or equalization of waste flows, the design and installation of

the plants and equipment shall be subject to the review and approval of the Town, and subject to the requirements of all applicable codes, ordinances and laws. Where preliminary treatment or flow-equalizing facilities are provided for any water or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

ARTICLE VII –XI. Reserved.

ARTICLE XII.-Reserved.

ARTICLE XIII.-Complaints; Adjustments.

Section 13-1. Requests for Adjustment.

If a Customer believes their water/sanitary sewer bill to be in error, the Customer shall present his or her claim in person or in writing in the Town's office before the bill becomes delinquent. Where a customer receives a water bill that reflects extraordinary charges for a billing period, and where the customer demonstrates to the reasonable satisfaction of the Town that a break or leak on the customer's side of the meter was the cause of the extraordinary charges, an adjustment may be made to the Customer's water bill in accordance with the provisions of this Ordinance, at the discretion of the Town Board.

An adjustment may be made to a customer's bill under the following conditions:

On a concealed leak in the Customer's piping, an adjustment may be made upon receipt of a statement from a licensed plumber or upon receipt of a signed statement from the property owner or his/her legal representative, that the leak has been repaired and that the repair meets or exceeds any applicable state plumbing codes.

Amended April 6, 2015 that section (1) above be deleted and that customer must sign a Water/Sewer Release Agreement with the understanding that they will only get two (2) water/sewer adjustments in one (1) twelve (12) month period. (2) Under other circumstances, such as the theft of services by someone other than the property owner, where the evidence indicates to the Town that an adjustment is the appropriate answer to the situation.

On the sanitary sewer portion of the utility bill, where the excess water from the break or leak did not enter the sanitary sewer system, the Customer shall be required to pay an amount equal to the average of the customer's sanitary sewer bill for the previous three (3) month period, or the minimum sanitary sewage charge, whichever is greatest.

On the sanitary sewer portion of the utility bill, where the excess water from the break entered the sanitary sewer system, the Customer shall be required to pay the established minimum sanitary sewer charge.

Under no circumstances shall the sanitary sewage portion of the bill be reduced below the minimum monthly charge for the period.

It is the responsibility of the Customer to check water and sewer lines on the property of the Customer for broken or burst lines. Each Customer shall contact the Town to report any such instance of broken lines or burst lines as soon as possible after discovery, and in no event later than seven (7) days after the postmark date of the monthly water and sewer statement or seven (7) days after discovery of broken or burst lines, whichever occurs sooner.

When Town personnel discover that a leak exists, and the owner is notified of the same, the owner shall take immediate steps within seven (7) calendar days to correct the situation. Undue delay by the owner shall cause forfeiture of any benefits from this adjustment policy, however during inclement weather events, forfeiture of any benefits from this adjustment policy shall be at the discretion of the Town Board.

Customers shall be limited to two (2) billing adjustments in one (1) twelve (12) month period.

Any claims made after the bill has become delinquent shall not be effective in preventing discontinuance of services as heretofore provided. The Customer may pay such bill under protest and said payment shall not prejudice his or her claim.

Section 13-2. Meter Failure.

If the seal of a meter is broken by other than the Town’s representative or if the meter fails to register correctly or is stopped for any cause, the Customer shall pay an amount estimated from the record of his previous bills.

Section 13-3. Rereading Policy.

The consumer may request a special meter reading if the Customer feels that his bill is incorrect. A fee of \$10.00 shall be charged for each such rereading after the first one in any twelve (12) month period when requested by the Customer.

ARTICLE XIV.-Abridgment or Modification of Rules.

No promise, agreement, or representation of any employee of the Town shall be binding upon the Town except as it shall have been agreed upon in writing, signed and accepted by the acknowledged officers of the Town. No modification of rates shall be made by any agent of the Town.

ARTICLE XV.-Separability.

It is the intention of the Elk Park Town Council that each separate provision of this Ordinance shall be deemed independent of all other provisions herein. It is further the intention of the Council that if any provision of this Ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

ARTICLE XVI.-Adoption of Ordinance.

Until further order of the Elk Park Town Council, the Ordinance as herein above set out is hereby adopted as of the date hereof to become effective immediately.

Done this, the _____ day of _____, 20_____.

Mayor

ATTEST:

Town Clerk

