



Boiling Springs Town Council

Special Meeting Agenda
November 08, 2022



Town of Boiling Springs

PO Box 1014 | Boiling Springs, NC 28017
Phone 704-434-2357 | Fax 704-434-2358
www.BoilingSpringsNC.net

TOWN COUNCIL

MEETING AGENDA
November 08, 2022

ROUTINE BUSINESS

1. Call to Order
2. Adoption of Agenda
3. Public Comment

The Town Council desires all citizens have an opportunity to address the Council in an open and productive manner. Individuals not on the agenda but wishing to speak. During the Public Comment portion of the meeting speakers have three (3) minutes. Groups are urged to appoint a spokesperson.

CONSENT AGENDA

Motion to approve the consent agenda as presented approves all items unless Council would like to take a vote on an item separately

- 1. Minutes of the October 4th Council meeting
- 2. ARP Policies

These are requirements of the federal government for handling ARP funds

- 3. Budget Amendment for Pay Study Implementation

SPECIAL PRESENTATIONS

1. Creative EDC Presentation

Crystal Morphis will present on current economic development trends

2. Cleveland County Economic Development Partnership

Brandon Ruppe will give a brief presentation

3. Gardner-Webb University Update

Nate Evans, VP for Advancement with provide a brief update

REGULAR BUSINESS

- #### 1. Revisions to Chapter 92 - Animals of the Code of Ordinances

DISCUSSION ITEMS



Town of Boiling Springs

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TOWN COUNCIL

MEETING AGENDA

November 08, 2022

1. Bike/Scooter Rental Program

2. Solicitor Ordinance

REPORTS

1. Manager, Council, and Mayor Reports

ADJOURN

**Town of Boiling Springs
Council
Regular Meeting Minutes
October 04, 2022**

ROUTINE BUSINESS

Call to Order

Mayor Thomas Called the Meeting to order at 6:30pm

PRESENT

Mayor Daniel Thomas
Councilmember Caleb Edwards
Councilmember Marty Thomas
Mayor Pro-Tem Patrick Litton
Councilmember Tommy Greene
Councilmember Tonya Gantt

Staff Present

Town Manager Justin Longino
Town Clerk Noah Saldo
Finance Director Rhonda Allen
Public Works Director Mike Gibert
Chief of Police Nathan Phillips
Lead for NC Fellow Greyson Sonntag
Town Attorney John Schweppe III

Adoption of Agenda

Approve as presented

Motion made by Councilmember Greene, Seconded by Councilmember Thomas.
Voting Yea: Councilmember Edwards, Councilmember Thomas, Mayor Pro-Tem Litton,
Councilmember Greene, Councilmember Gantt

Public Comment

Leonard Self, 107 Glenn Ave, requested that Glenn Ave be renamed.

Gardner-Webb University Update

Vice President Nate Evans gave an update on upcoming events.

Cleveland County Chamber of Commerce Update

Christine Cribb Executive Director of the Cleveland County Chamber gave an update on the Chamber and their events.

CONSENT AGENDA

Items in this section are considered to be routine and can be approved with one motion. If a Councilmember wishes to discuss an item, it will be moved and added as the first item under New Business. A summary of the items is included at the beginning of this section.

Approved the following as Presented:

Adoption of Minutes September 6th Regular Council Meeting

Request for proposals from firms to update our future land use plan

Selection of McGill Firm for AIA Grants

Animals on Public Streets Ordinance Revision Ordinance#221004.03

Motion made by Councilmember Edwards, Seconded by Councilmember Gantt.
Voting Yea: Councilmember Edwards, Councilmember Thomas, Mayor Pro-Tem Litton,
Councilmember Greene, Councilmember Gantt

OLD BUSINESS

Consider MAPS Group Pay and Classification Study

Ms. Cheryl Brown presented the results of the Pay and Classification Study study.

Council discussed the options.

Motion to approve Option 2 of the new pay scale consisting of 3/4 % pay raise per year of service and raise Councilmembers compensation from \$100 to \$200 per month and raise the Mayor's compensation from \$200 to \$400 per month effective October 1, 2022.

Motion made by Councilmember Greene, Seconded by Councilmember Gantt.
Voting Yea: Councilmember Edwards, Councilmember Thomas, Mayor Pro-Tem Litton,
Councilmember Greene, Councilmember Gantt

NEW BUSINESS

Town Commons Waterline Project Bid

Motion to Accept Father & Son Enterprise for option 2 in the bid packet.

Motion made by Councilmember Thomas, Seconded by Councilmember Greene.
Voting Yea: Councilmember Edwards, Councilmember Thomas, Mayor Pro-Tem Litton,
Councilmember Greene, Councilmember Gantt

PUBLIC HEARINGS

Downtown Overlay District

Review overlay district and consider for adoption

Mayor opened public hearing at 7:38pm

Mr. Longino presented the Downtown Overlay District

Motion to approve Ordinance #221004.02 as presented

Nate Evans with Gardner-Webb asked when it would go into effect.

Mr. Longino stated immediately upon adoption.

Public Hearing Closed at 7:41pm

Motion made by Councilmember Greene, Seconded by Councilmember Gantt.

Voting Yea: Councilmember Edwards, Councilmember Thomas, Councilmember Greene, Councilmember Gantt

Voting Nay: Mayor Pro-Tem Litton

Floodplain Ordinance Update

Additional revision from NCDEM to our ordinance

Mayor Thomas opened the Public Hearing at 7:46pm

Mr. Longino presented the Floodplain Ordinance update

Mayor Thomas closed the public hearing at 7:47pm

Approve Ordinance #221004.01 as presented

Motion made by Councilmember Greene, Seconded by Councilmember Edwards.

Voting Yea: Councilmember Edwards, Councilmember Thomas, Mayor Pro-Tem Litton, Councilmember Greene, Councilmember Gantt

DISCUSSION

Retail Buildings in front of Town Hall

Mr. Longino reviewed the renderings for retail buildings in front of Town Hall

Motion to instruct staff to pursue further and report back to Council with detailed plan of options to proceed.

Motion made by Councilmember Thomas, Seconded by Councilmember Edwards.
Voting Yea: Councilmember Edwards, Councilmember Thomas, Mayor Pro-Tem Litton,
Councilmember Greene, Councilmember Gantt

Public Works Surplus Vehicle

The Consensus of Council was to work out a deal with the County to transfer the surplus public works vehicle to the Broad River Greenway.

Discuss Pet Waste Stations

The consensus of the Council was to proceed with the placement of two pet waste stations in Town.

Discuss Cleveland Cup

Motion to close Town Hall on Friday, October 14 at 2pm to allow staff to participate in the Cleveland Cup.

Motion made by Councilmember Thomas, Seconded by Councilmember Greene.
Voting Yea: Councilmember Edwards, Councilmember Thomas, Mayor Pro-Tem Litton,
Councilmember Greene, Councilmember Gantt

Revert to Landlord Policy

The Consensus of Council was to proceed with a reverting to landlord policy.

REPORTS

Mayor, Council, & Manager Reports

Mr. Longino asked for Council to consider nominating someone for the Christmas parade grand marshal. Mayor Thomas nominated Kim Greene former Town Clerk Councilmember Thomas made the motion seconded by Councilmember Gantt and the voted Passed Unanimously.

There's been a water quality issue with the City of Shelby. Streams and rivers have 'turned over' which sometimes happens this time of year. Water may taste different but it is safe to drink. Shelby and Boiling Springs will work to flush the system to work it out.

Early Voting at Town Hall starting October 20th

EV charging station grant formally approved today

Two Public Works positions open. Interviews for both forthcoming

Audit complete their formal report will be forthcoming

Parallel spaces on east college not approved by DOT

Working on intersection conflict system

Economic development consulting firm Creative EDC; we won virtual presentation on economic development trends

Roosters purchase fell through, roof ordered, and interior plans in the works. Will continue to check in.

Councilmember Greene attended MPO meeting they approved letter of support for grant the Town is applying for, member of DOT 12th DOT division received \$100 million grant from new infrastructure law. Division only one in state use part to expand interstate 85 to 4 lanes. Golf carts where can I ride it people asked, possibly develop a map for area to ride. Petition for speed limit change and change street name. Process for resident to initiate adoption of new ordinance.

Councilmember Litton: Gld for public works applicants. Hopes to look at livestock ordinance soon.

Councilmember Edwards: Thanked staff for zoom work and stated one screen might be helpful.

Councilmember Thomas asked what merit increases we have built in. Mr. Longino stated we do that each budget cycle, the Council adjusts that rate as well as cost of living increases.

Councilmember Gantt stated we want to pay for good work, keep up with merit raises, a lot was accomplished tonight.

Mayor Thomas recognized Daphne who spoke on concern with solicitors in Town and asked for a Town-wide ban.

Hope to reach out to Laura Beaver on her literacy initiative.

Next Council meeting Nov. 8 because of early voting.

Motion to Adjourn At 8:24pm

Motion made by Councilmember Greene, Seconded by Councilmember Edwards.
Voting Yea: Councilmember Edwards, Councilmember Thomas, Mayor Pro-Tem Litton,
Councilmember Greene, Councilmember Gantt



THE TOWN OF BOILING SPRINGS, NC
TOWN COUNCIL RESOLUTION #221108.01
ARP/CSLFRF NONDISCRIMINATION POLICY

WHEREAS, the Town of Boiling Springs has received an allocation of funds from the “Coronavirus State Fiscal Recovery Fund” or “Coronavirus Local Fiscal Recovery Fund” (together “CSLFRF funds”), established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the “ARP/CSLFRF award”).

WHEREAS, CSLFRF funds are subject to the U.S. Department of Treasury (“Treasury”) regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22.

WHEREAS, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, the Town of Boiling Springs agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of CSLFRF under the terms and conditions of the ARP/CSLFRF award, including, without limitation, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury’s implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin within programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving Federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury’s implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
- v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

NOW THEREFORE BE IT RESOLVED, That the Town Council of the Town of Boiling Springs, NC hereby adopts and enacts the following nondiscrimination policy, which shall apply to the

operations of any program, activity, or facility that is supported in whole, or in part, by expenditures CSLFRF pursuant to the ARP/CSLFRF award.

Nondiscrimination Policy Statement

It is the policy of the Town of Boiling Springs to ensure that no person shall, on the ground of race, color, national origin (including limited English Proficiency), familial status, sex, age, or disability, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under any program or activity administered by the Town of Boiling Springs, including programs or activities that are funded in whole or part, with Coronavirus State and Local Fiscal Recovery Funds ("CSLFRF"), which the Town of Boiling Springs received from the U.S. Department of Treasury ("Treasury") pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (herein the "ARP/CSLFRF award").

I. Governing Statutory & Regulatory Authorities

As required by the CSLFRF [Award Terms and Conditions](#), the Town of Boiling Springs shall ensure that each "activity," "facility," or "program"¹ that is funded in whole, or in part, with CSLFRF and administered under the ARP/CSLFRF award, will be facilitated, operated, or conducted in compliance with the following federal statutes and federal regulations prohibiting discrimination. These include, but are not limited to, the following:

- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
- iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
- iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age within programs or activities receiving federal financial assistance; and

¹ 22 C.F.R. § 22.3 defines "program" and "activity" as all operations of an entity, including local governments, that receive Federal financial assistance, and the departments, agencies, or special purpose districts of the local governments to which Federal financial assistance is distributed. "Federal financial assistance" includes, among other things, grants and loans of federal funds. "Facility" includes all or any part of structures, equipment, or other real or personal property or interests therein, and the provision of facilities includes the construction, expansion, renovation, remodeling, alteration, or acquisition of facilities.

v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

II. Discriminatory Practices Prohibited in the Administration of the ARP/CSLFRF Award

To ensure compliance with Title VII of the Civil Rights Act of 1964, and Title 31 Code of Federal Regulations, Part 22, the Civil Rights Restoration Act of 1987, and other pertinent nondiscrimination authorities, the Town of Boiling Springs shall prohibit, at a minimum, the following practices in its administration of CSLFRF pursuant to the ARP/CSLFRF award:

1. Denying to a person any service, financial aid, or other program benefit without good cause;
2. Providing to a person any service, financial aid, or another benefit which is different in quantity or quality, or is provided in a different manner, from that provided to others under the program.
3. Subjecting a person to segregation or separate treatment in any matter related to the receipt of any service, financial aid, or other benefit under the program;
4. Restricting a person in the enjoyment of any advantages, privileges, or other benefits enjoyed by others receiving any service, financial aid, or other benefit under the program;
5. Treating a person differently from others in determining whether that person satisfies any admission, enrollment, quota, eligibility, membership, or other requirement or condition which persons must meet to be provided any service, financial aid, or other benefit provided under the program;
6. Implementing different standards, criteria, or other requirements for admission, enrollment, or participation in planning, advisory, contractual, or other integral activities to the program;
7. Adopting methods of administration which, directly or through contractual relationships, would defeat or substantially impair the accomplishment of effective nondiscrimination;
8. Selecting a site or location of facilities with the purpose or effect of excluding persons from, denying them the benefits of, subjecting them to discrimination, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of Title VI or related acts and regulations;
9. Discriminating against any person, either directly or through a contractual agreement, in any employment resulting from the program, a primary objective of which is to provide employment;
10. Committing acts of intimidation or retaliation, including threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by any pertinent nondiscrimination law, or because an individual made a complaint, testified, assisted, or participated in an investigation, proceeding, or hearing.

III. Reporting & Enforcement

1. The Town of Boiling Springs shall cooperate in any enforcement or compliance review activities by the Department of the Treasury. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may

result from these actions. The Town of Boiling Springs shall comply with information requests, on-site compliance reviews, and reporting requirements.

2. The Town of Boiling Springs shall maintain a complaint log and inform the Treasury of any complaints of discrimination on the grounds of race, color, or national origin (including limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, whether pending or completed, including the outcome. The Town of Boiling Springs shall inform the Treasury if it has received no complaints under Title VI.
3. Any person who believes they have been aggrieved by a discriminatory practice under Title VI has a right to file a formal complaint with the Treasury. Any such complaint must be in writing and filed with the Treasury's Title VI Coordinator within one hundred eighty (180) days following the date of the alleged discriminatory occurrence.
4. Any person who believes that because of that person's race, color, national origin, limited English proficiency, familial status, sex, age, religion, or disability that he/she/they have been discriminated against or unfairly treated by the Town of Boiling Springs in violation of this policy should contact the following office within 180 days from the date of the alleged discriminatory occurrence:

Justin Longino, Town Manager, 704.434.2357, justin.longino@boilingspringsnc.net

Adopted this 8th day of November 2022.

X

Daniel Thomas
Mayor

Attest:

X

Noah Saldo
Town Clerk



**THE TOWN OF BOILING SPRINGS, NC
TOWN COUNCIL RESOLUTION #221108.02**

**Record Retention Policy: Documents Created or Maintained Pursuant to the ARP/CSLFRF
Award**

WHEREAS, the Town of Boiling Springs has received an allocation of funds from the “Coronavirus State Fiscal Recovery Fund” or “Coronavirus Local Fiscal Recovery Fund” (together “CSLFRF funds”), established pursuant to Sections 602 and 603 of the Social Security Act, as added by Section 9901 of the American Rescue Plan Act of 2021, Pub. L. No. 117-2 (the “ARP/CSLFRF award”).

WHEREAS, CSLFRF funds are subject to the U.S. Department of Treasury (“Treasury”) regulations, including the Final Rule, the Award Terms and Conditions, and the Title VII implementing regulations at 31 C.F.R. Part 22.

WHEREAS, pursuant to the ARP/CSLFRF Award Terms and Conditions, and as a condition of receiving CSLFRF funds, the Town of Boiling Springs agrees to follow all federal statutes and regulations prohibiting discrimination in its administration of CSLFRF under the terms and conditions of the ARP/CSLFRF award, including, without limitation, the following:

NOW THEREFORE BE IT RESOLVED, That the Town Council of the Town of Boiling Springs, NC hereby adopts and enacts the following.

Retention of Records: The Coronavirus Local Fiscal Recovery Funds (“CSLFRF”) [Award Terms and Conditions](#) and the [Compliance and Reporting Guidance](#) set forth the U.S. Department of Treasury’s (“Treasury”) record retention requirements for the ARP/CSLFRF award.

It is the policy of the Town of Boiling Springs to follow Treasury’s record retention requirements as it expends CSLFRF pursuant to the APR/CSLFRF award. Accordingly, the Town of Boiling Springs agrees to the following:

- Retain all financial and programmatic records related to the use and expenditure of CSLFRF pursuant to the ARP/CSLFRF award for a period of five (5) years after all CLFRF funds have been expended or returned to Treasury, whichever is later.

- Retain records for real property and equipment acquired with CSLFRF for five years after final disposition.
- Ensure that the financial and programmatic records retained sufficiently evidence compliance with section 603(c) of the Social Security Act “ARPA,” Treasury’s regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
- Allow the Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, the right of timely and unrestricted access to any records for the purpose of audits or other investigations.
- If any litigation, claim, or audit is started before the expiration of the 5-year period, the records will be retained until all litigation, claims, or audit findings involving the records have been resolved.

Covered Records: For purposes of this policy, records are information, regardless of physical form or characteristics, that are created, received, or retained that evidence the Town of Boiling Springs’ expenditure of CSLFRF funds on eligible projects, programs, or activities pursuant to the ARP/CSLFRF award.

Records that shall be retained pursuant to this policy include, but are not limited to, the following:

- Financial statements and accounting records evidencing expenditures of CSLFRF for eligible projects, programs, or activities.
- Documentation of rational to support a particular expenditure of CSLFRF (e.g., expenditure constitutes a general government service);
- Documentation of administrative costs charged to the ARP/CSLFRF award;
- Procurement documents evidencing the significant history of a procurement, including, at a minimum, the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for contract cost or price;
- Subaward agreements and documentation of subrecipient monitoring;
- Documentation evidencing compliance with the Uniform Guidance property management standards set forth in 2 C.F.R. §§ 200.310-316 and 200.329;
- Personnel and payroll records for full-time and part-time employees compensated with CSLFRF, including time and effort reports; and
- Indirect cost rate proposals

Storage: The Town of Boiling Springs’ records must be stored in a safe, secure, and accessible manner. Wherever practicable, such records should be collected, transmitted, and stored in open and machine-readable formats.

Departmental Responsibilities: Any department or unit of the Town of Boiling Springs, and its employees, who are responsible for creating or maintaining the covered documents in this policy shall comply with the terms of this policy. Failure to do so may subject the Town of Boiling Springs to civil and/or criminal liability. Any employee who fails to comply with the record retention requirements set forth herein may be subject to disciplinary sanctions, including suspension or termination.

The Town Clerk is responsible for identifying the documents that the Town of Boiling Springs must or should retain and arrange for the proper storage and retrieval of records. The Town Clerk shall also ensure that all personnel subject to the terms of this policy are aware of the record retention requirements set forth herein.

Reporting Policy Violations: The Town of Boiling Springs is committed to enforcing this policy as it applies to all forms of records. Any employee that suspects the terms of this policy have been violated shall report the incident immediately to that employee's supervisor. If an employee is not comfortable bringing the matter up with the supervisor, the employee may bring the matter to the attention of the Town Manager. The Town of Boiling Springs prohibits, any form of discipline, reprisal, intimidation, or retaliation for reporting incidents of inappropriate conduct of any kind, pursuing any record destruction claim, or cooperating in related investigations.

Questions About the Policy: Any questions about this policy should be referred to Town Clerk Noah Saldo, 704.434.2357, noah.saldo@boilingspringsnc.net, who is in charge of administering, enforcing, and updating this policy.

Adopted this 8th day of November 2022.

X

Daniel Thomas
Mayor

Attest:

X

Noah Saldo
Town Clerk

TOWN OF BOILING SPRINGS
CAPITAL PROJECT ORDINANCE AMENDMENT GPOA# 221108

WHEREAS, the Town Council of the Town of Boiling Springs adopted a grant project ordinance on June 29, 2021 which established revenues and authorized expenditures for the Coronavirus State and Local Fiscal Recovery Funds of H.R. 1319 American Rescue Plan Act of 2021 (CSLRF); and

WHEREAS, since the time of the adoption of said ordinance, it has become necessary to make certain changes in the grant project ordinance to fund additional salary and fringe benefit expenses resulting from the pay and classification study performed by the MAPS Group;

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Boiling Springs that the grant project ordinance as adopted on June 29, 2021 be and is hereby amended as follows:

Section 1. Revenues-General Fund

	<u>Increase</u>
Appropriation from Special Revenue Fund-ARP Grant	<u>\$ 44,150</u>

Section 2. Expenditures-General Fund

	<u>Increase</u>
General Administration salaries	\$ 6,400
General Administration 401k	320
General Administration payroll taxes	490
General Administration retirement	790
Police salaries	21,940
Police 401k	1,100
Police payroll taxes	1,680
Police retirement	2,860
Sanitation salaries	6,530
Sanitation 401k	330
Sanitation payroll taxes	500
Sanitation retirement	800
Recreation salaries	320
Recreation 401k	20
Recreation payroll taxes	30
Recreation retirement	40
Total Expenditures	<u>\$ 44,150</u>

Section 3. Revenues-Water/Sewer Fund

	<u>Increase</u>
Appropriation from Special Revenue Fund-ARP Grant	<u>\$ 25,520</u>

Section 4. Expenditures-Water/Sewer Fund

	<u>Increase</u>
Water/Sewer Administration salaries	\$ 4,600
Water/Sewer Administration 401k	230
Water/Sewer Administration payroll taxes	360
Water/Sewer Administration retirement	570
Water Line salaries	1,800
Water Line 401k	90
Water Line payroll taxes	140
Water Line retirement	220
Sewer Line salaries	14,010
Sewer Line 401k	710
Sewer Line payroll taxes	1,080
<u>Sewer Line retirement</u>	<u>1,710</u>
Total Expenditures	<u>\$ 25,520</u>

This the 8th day of November 2022.

Daniel Thomas, Mayor

ATTEST:

Noah Saldo, Town Clerk



Economic Development Trends

November 2022

4 Big Trends

Item 1.



Labor Shortage



Remote Work
Here to Stay



Increase in
Entrepreneurship



Mega Projects

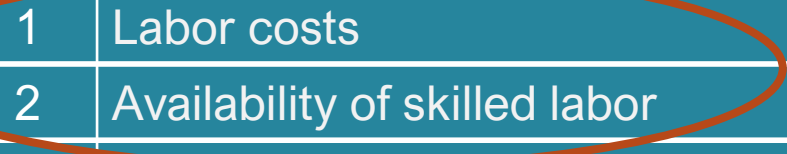


Labor

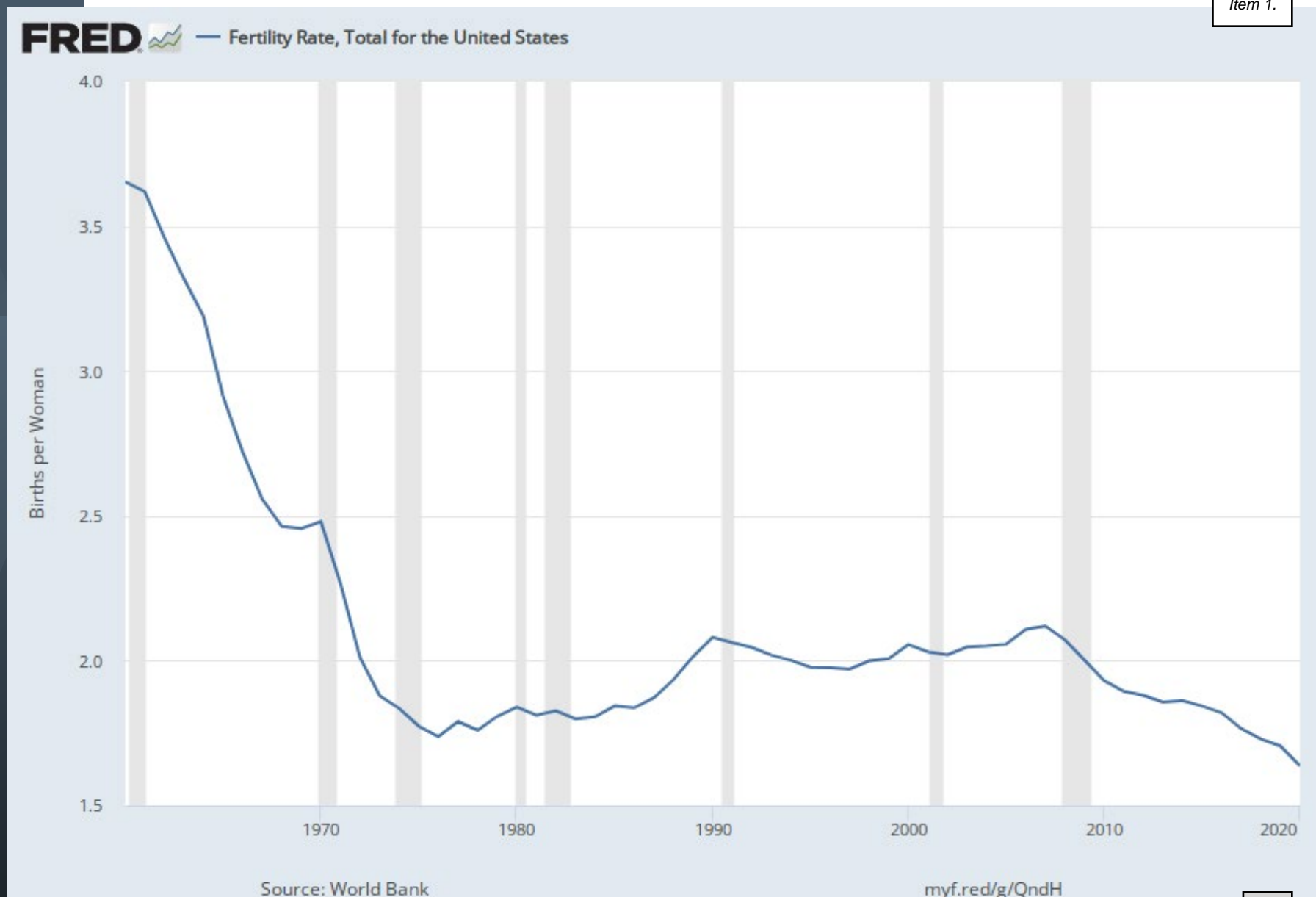
Corporate Site Location Factors

Item 1.

2021

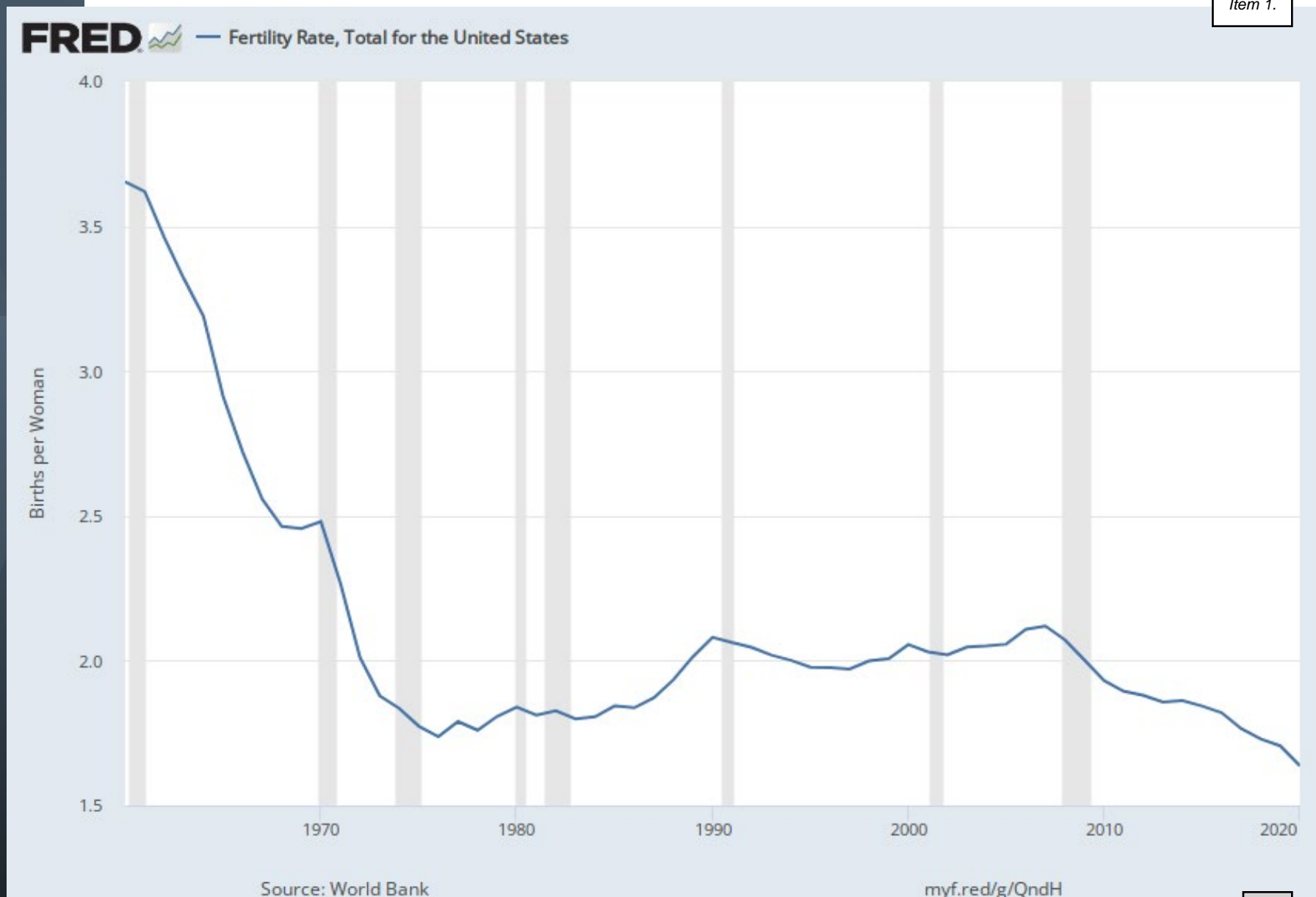
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| 1 | Labor costs |
| 2 | Availability of skilled labor |
| 3 | Energy availability and costs |
| 4 | Inbound/outbound shipping costs |
| 5 | Highway accessibility |
| 6 | Raw materials availability |
| 7 | Corporate tax rate |
| 8 | State and local incentives |
| 9 | Environmental regulations |
| 10 | Tax exemptions |

Declining Birth Rate



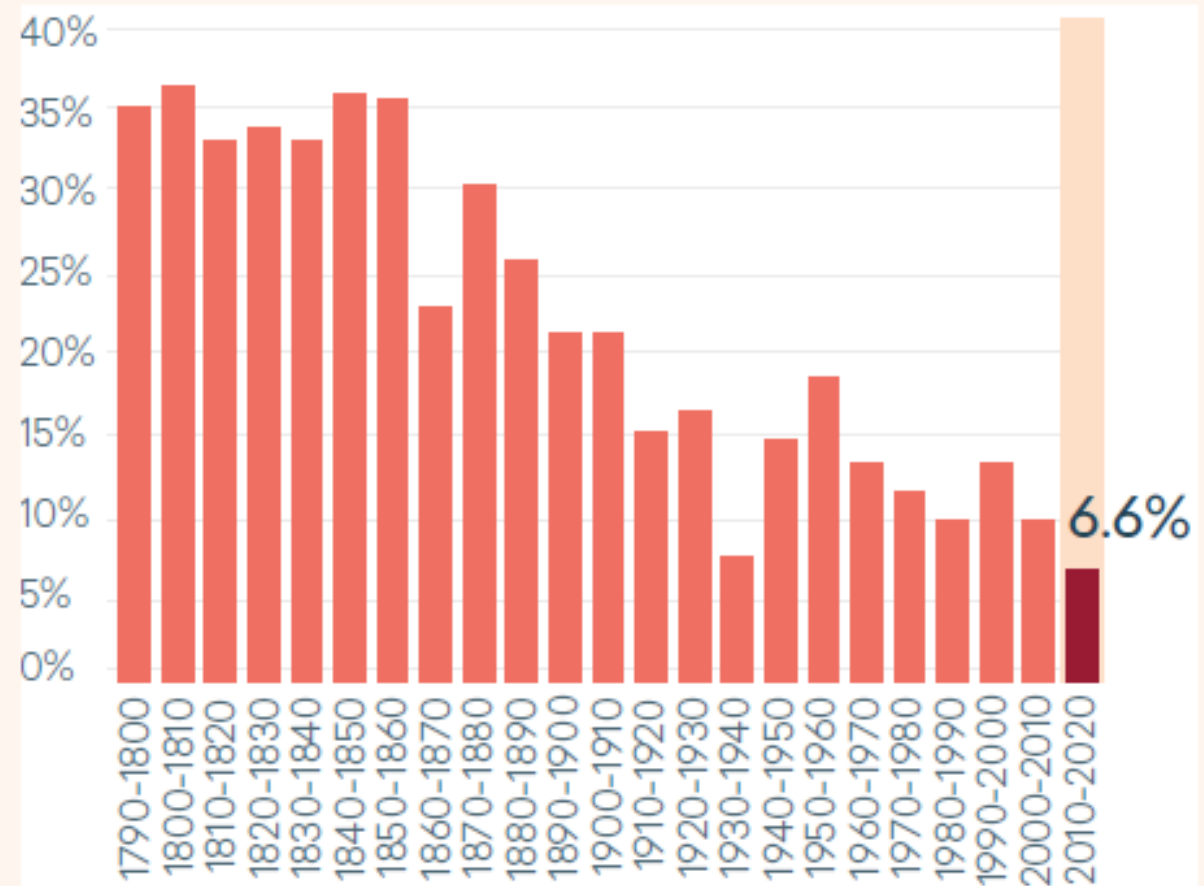
Item 1.

Declining Birth Rate



Slow Population Growth

US population growth by decade: 1790 to 2020 (estimated) censuses

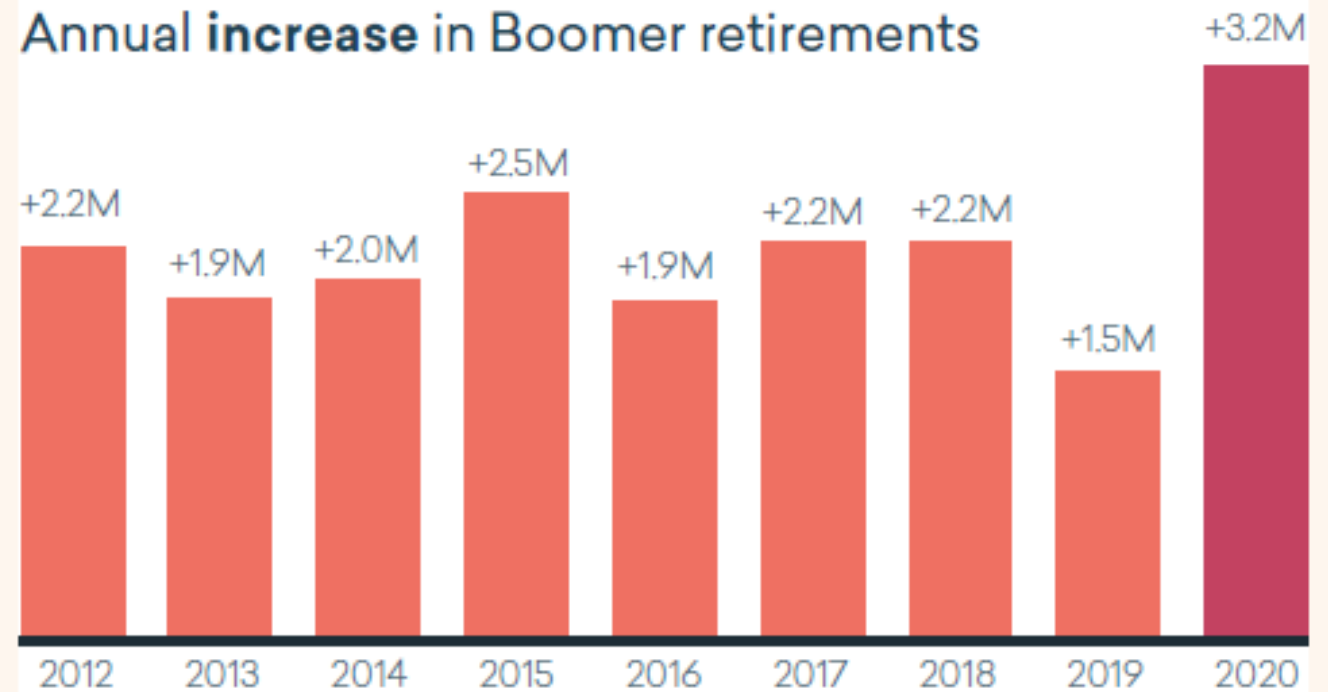


Baby Boomer Exiting

3M in 2020 - 1 M more than previous year

Item 1.

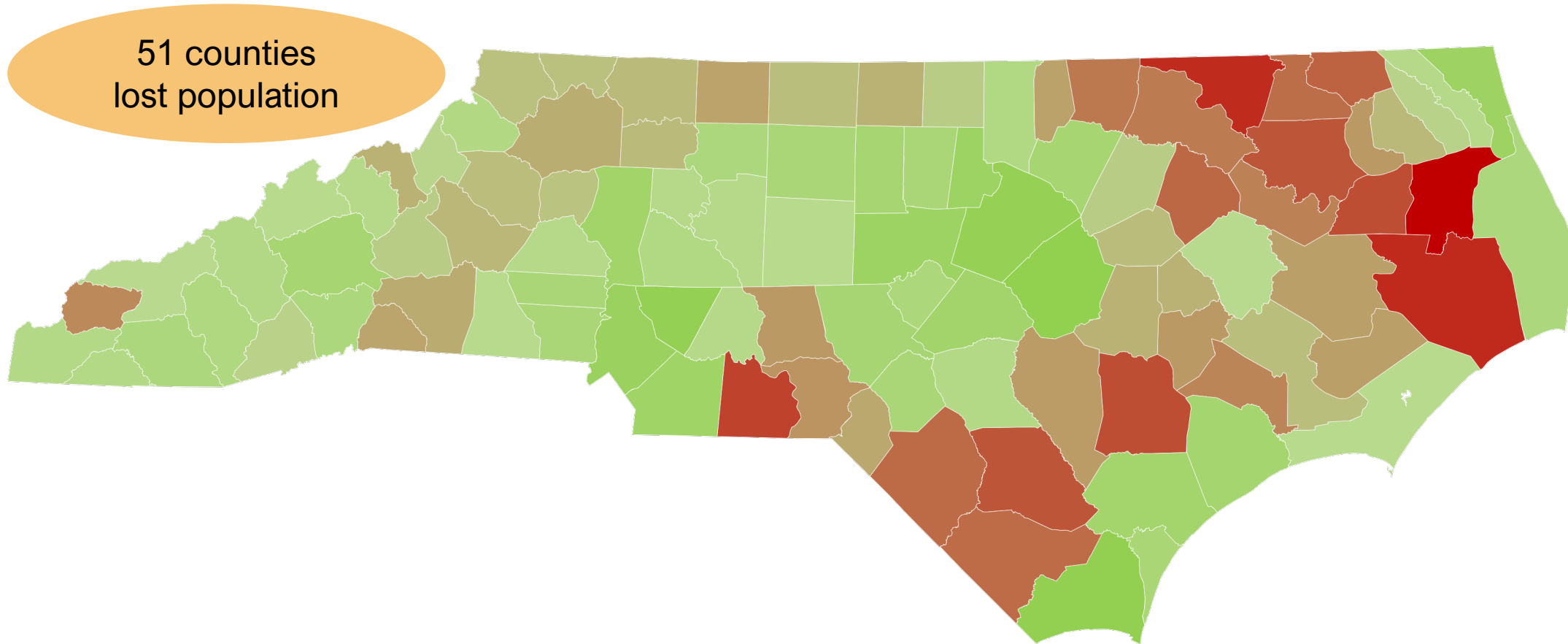
The number of retired Baby Boomers rose more from 2019 to 2020 than in prior years



Source: Pew Research Center analysis of July, August and September Current Population Survey monthly files (IPUMS)

Population Change 2010-2020

Item 1.



Source: U.S Census Bureau, Annual Estimates of Resident Population; 2010 - 2020

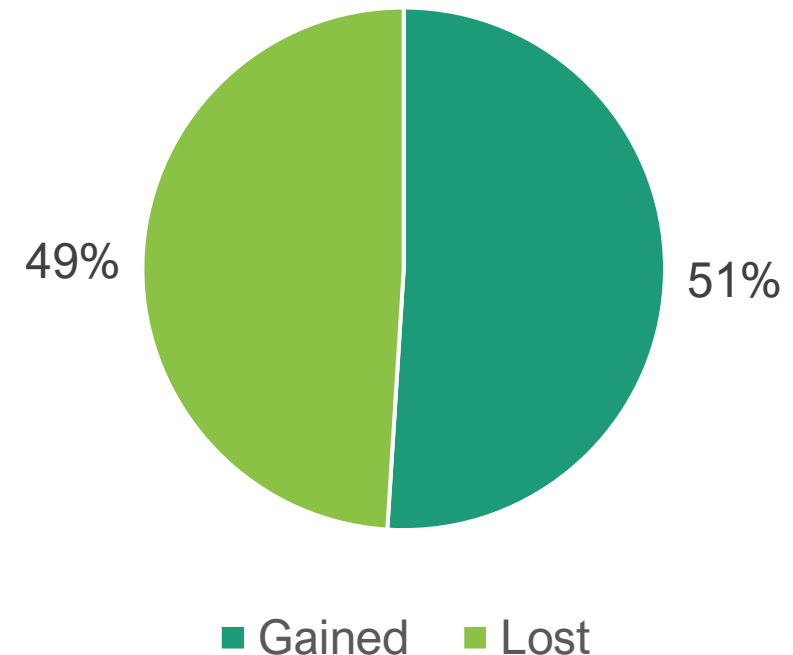
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NC Municipalities

Item 1.

- 361 out of 736 lost population 2010-2020
- 10 fastest growing
 - Blue Clay Farms, Frisco, Cashiers, Holly Ridge, Rolesville, Swepsonville, Beech Mountain, Surf City, Waxhaw, Stem
- 10 most declining
 - Spencer Mountain, Kittrell, Dellview, Falkland, Seven Springs, Lasker, Hassell, Princeville, Calypso, Leggett

Municipal Population Change 2010-2020

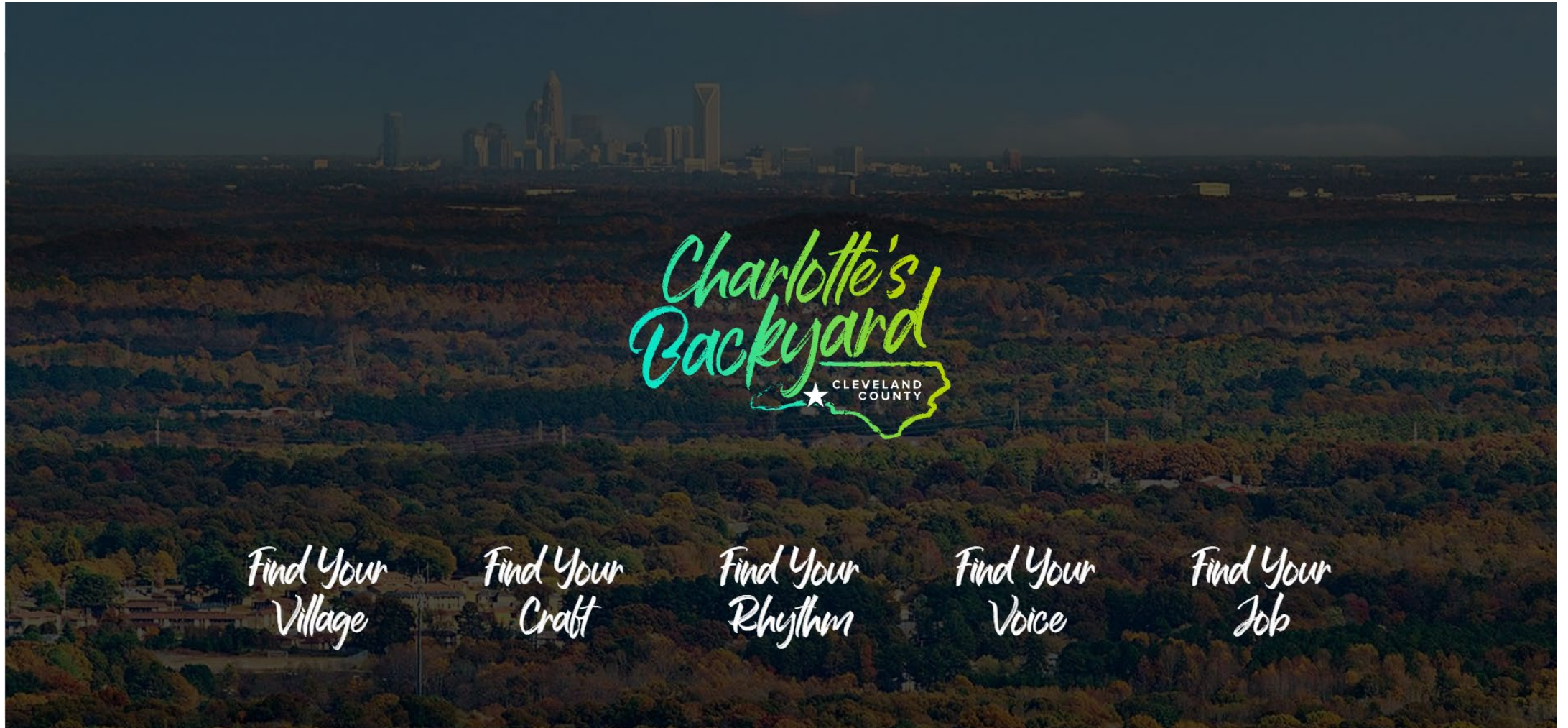


Source: U.S Census Bureau

What it means?

Communities that can attract talent will win.

Item 1.



Placed Based Strategies

- Amenities
- Arts and cultural resources
- Recreation
- Active downtowns
- Beautification
- Streetscape
- Life-long learning

Trails & Gathering
Places

Parks Master Plan

Gardner-Webb

Housing Shortage



Infrastructure to
Neighborhoods

Housing

- Housing market studies
- Marketing residential development sites
- Supporting upper floor residential

Town Planner



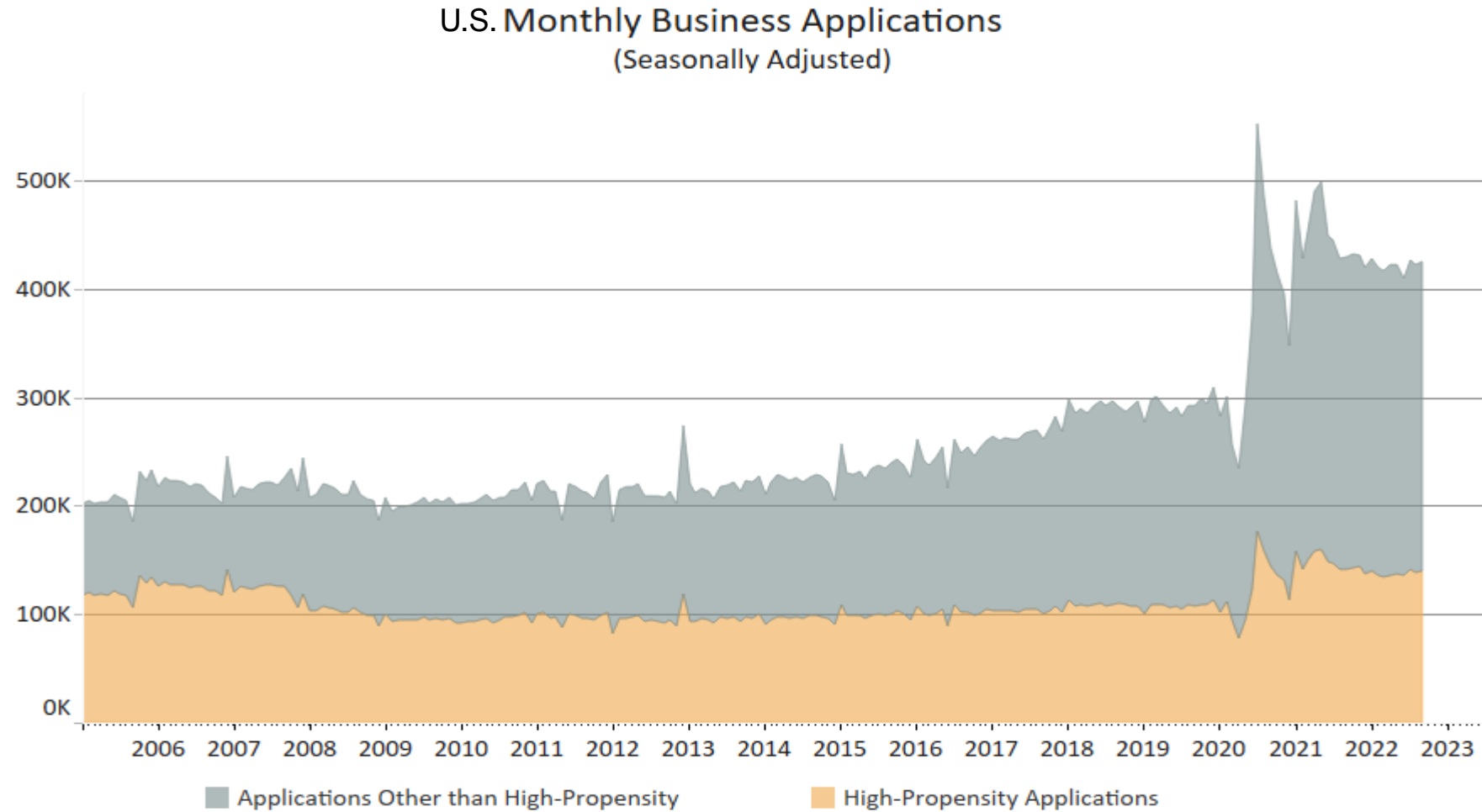
Remote Work & Entrepreneurship

Remote Work

- By 2025, 70% permanently working from home at least 5 days a month (*Forbes*)
- Almost 60% of workers prefer WFH (*Gallup*)
- Surveys show WFH preferred 1-4 days a week

Entrepreneurship

Item 1.

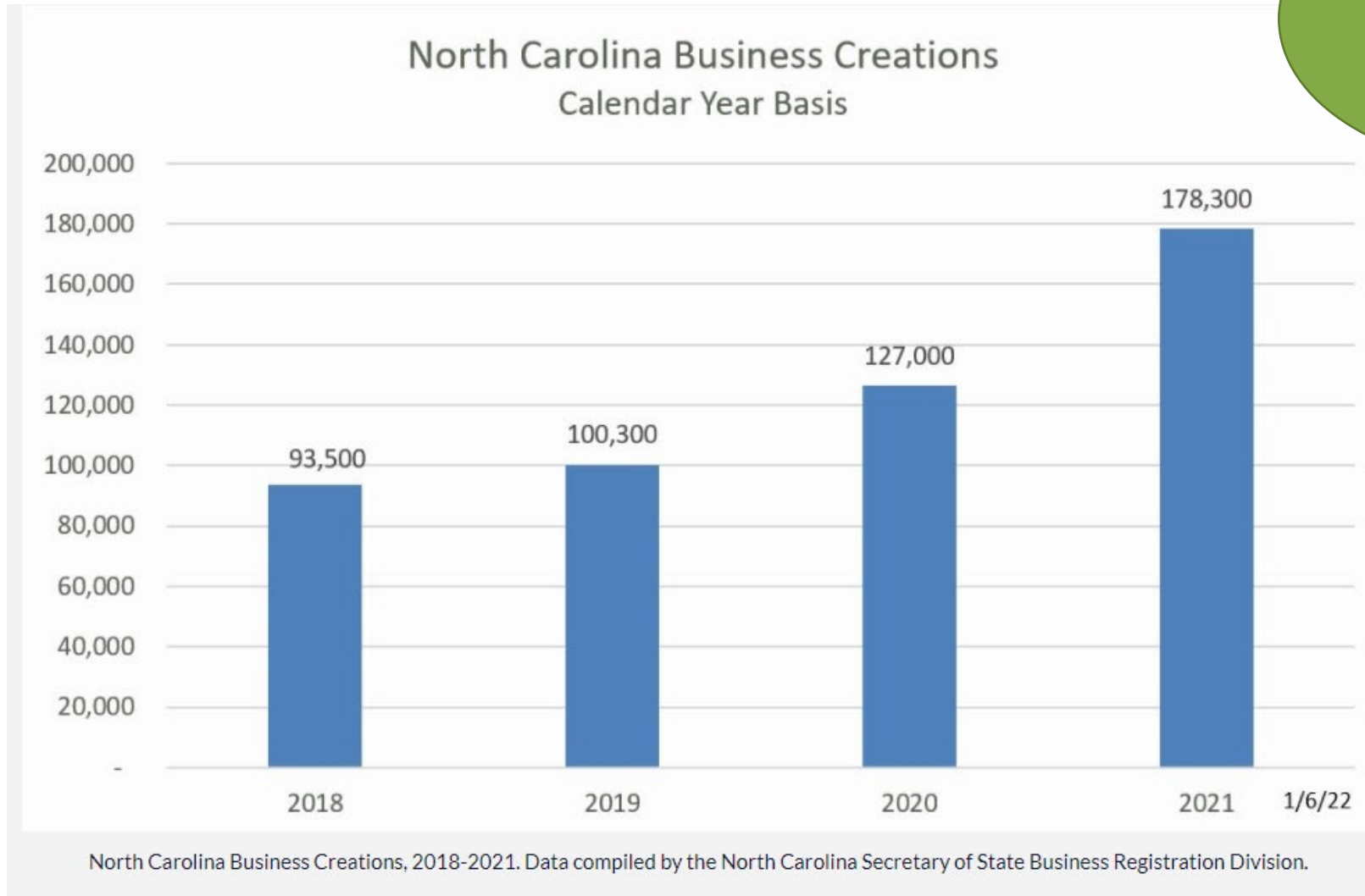


Source U.S. Census

Entrepreneurship

Item 1.

NC ranked #2
for small
business growth
in June 2022



Land for Small
Commercial Use

Cowork, Incubators



- Growth in coworking facilities – especially rural places
- Renewed interest in incubators
- Cleveland Advanced Training Center





Mega Projects in the Carolinas



Crystal Morphis

www.creativeedc.com

www.creativesiteassessment.com

www.creativecec.com

www.certifiedindustrialbuilding.com

creative

economic development consulting

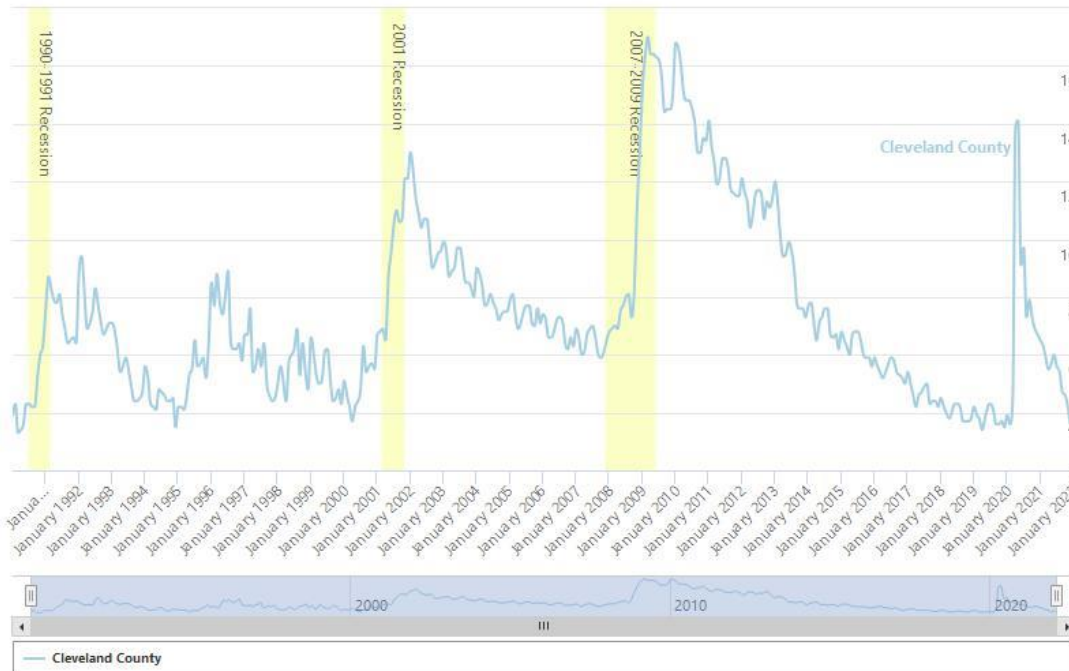
Cleveland County Labor Market

Brandon Ruppe



History

Not seasonally adjusted Labor Force, Employment and Unemployment data in
Cleveland County
Unemployment Rate (%)

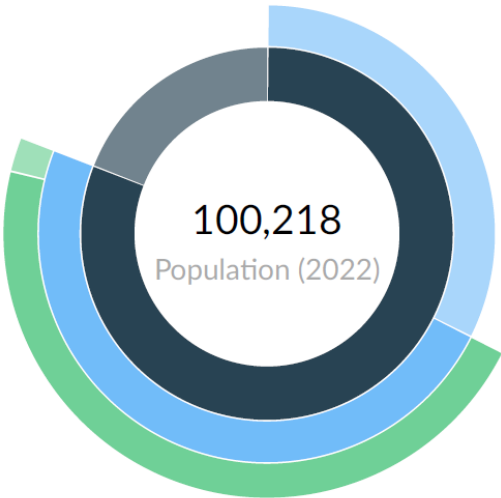


Source: Labor & Economic Analysis Division, Local Area Unemployment Statistics (LAUS) Program
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- December 1994- 3.4%
- March 2009 -17%
 - CLP- 2010
- May 2020- 14.1%

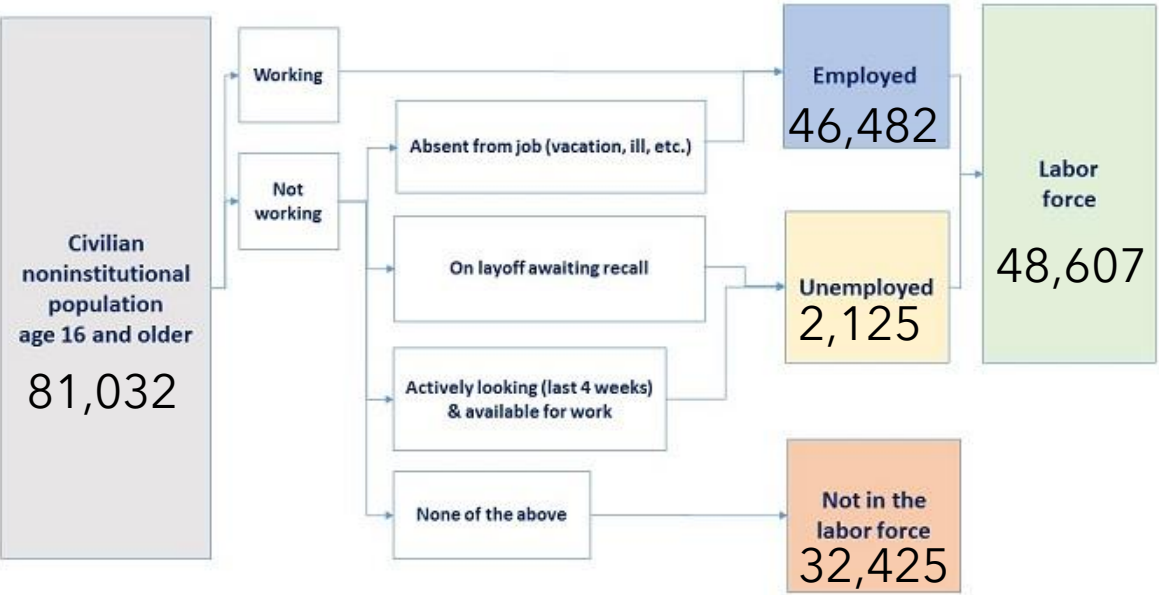
Current Workforce

Jun 2022 Labor Force Breakdown



	Population
● 16+ Civilian Non-Institutionalized Population	81,032
● Not in Labor Force (16+)	32,425
● Labor Force	48,607
● Employed	46,482
● Unemployed	2,125
● Under 16, Military, and institutionalized Population	19,185

Labor Force



Labor Force Participation

Clev. Co. 60%
NC 60.6% (FRED)
US 62.3% (BLS)

Unemployed/Labor Force *100= Unemployment Rate **4.4%**

*Clev. Co. 4.0% (NCWorks)
NC 3.5% (BLS)
US 3.5% (BLS)

Who is “Not in the Labor Force”

- + Key considerations
 - Disabled/Caretakers
 - Hidden Labor Market
 - Retirees
 - Stay at home parents

Who is “Not in the Labor Force” Disabled

Persons with Disability (age 16-64)	Number
Total number	7,406
Employed	2,651

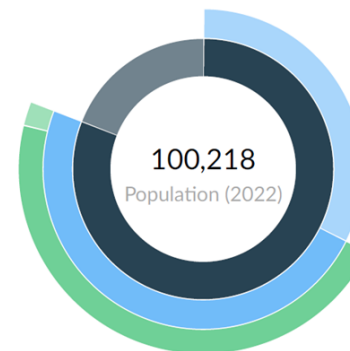
Jobs EQ

- + Institutionalized people confined to, or living in, institutions or facilities such as prisons, jails, and other correctional institutions and detention centers or **residential care facilities such as skilled nursing homes**

Who is “Not in the Labor Force” Hidden Labor Market

- + “Gray Workforce”
- + Potentially not reporting taxes meaning not included in the Labor Force Demographic

Jun 2022 Labor Force Breakdown



	Population
16+ Civilian Non-Institutionalized Population	81,032
Not in Labor Force (16+)	32,425
Labor Force	48,607
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Under 16, Military, and institutionalized Population	19,185

Who is “Not in the Labor Force”

Retirees

Age Group	2022 Population
65 to 69 years	6,080
70 to 74 years	5,431
75 to 79 years	4,108
80 to 84 years	2,294
85 years and over	1,726
Total	19,639

Who is “Not in the Labor Force”

Stay at Home Parents

Age	Number
0-5	6,521
5-9	6,009
Total	12,530

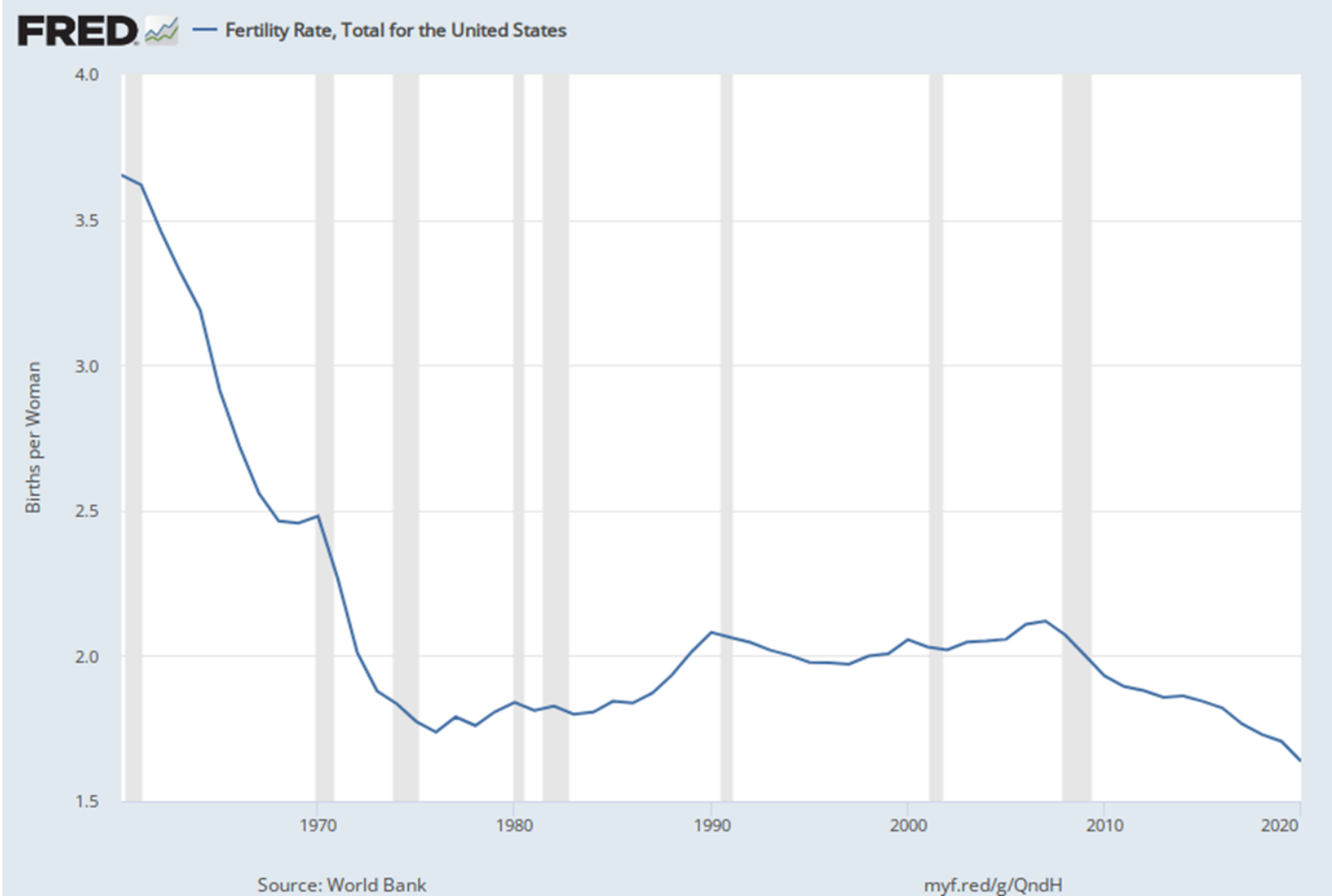
Market Rate Annual Cost		
Infants/Toddlers	\$	9,456
Two Year Olds	\$	9,012
3-5 Year Olds	\$	9,120
School Age	\$	7,452

NCDHHS 2021

20 hrs/week
\$12/hr
52 weeks/year

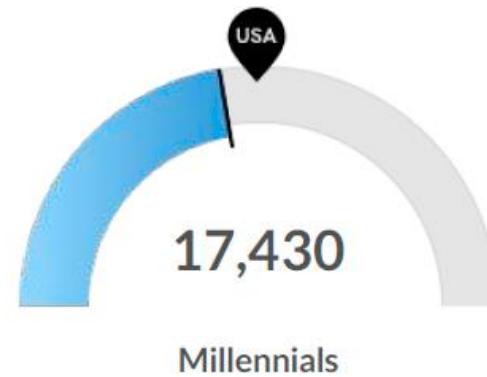
$20 \times 12 \times 52 = \$12,480$

Other Risks- Birth Rate



Other risks- Age Demographics

- + Loss of Millennials
 - + Additional Retirees
- "Great Resignation"



Cleveland County, NC has 17,430 millennials (ages 25-39). The national average for an area this size is 20,408.



Retirement risk is high in Cleveland County, NC. The national average for an area this size is 29,475 people 55 or older, while there are 32,633 here.

Commuting Pattern

ACCESSNC
North Carolina Economic Data and Site Information



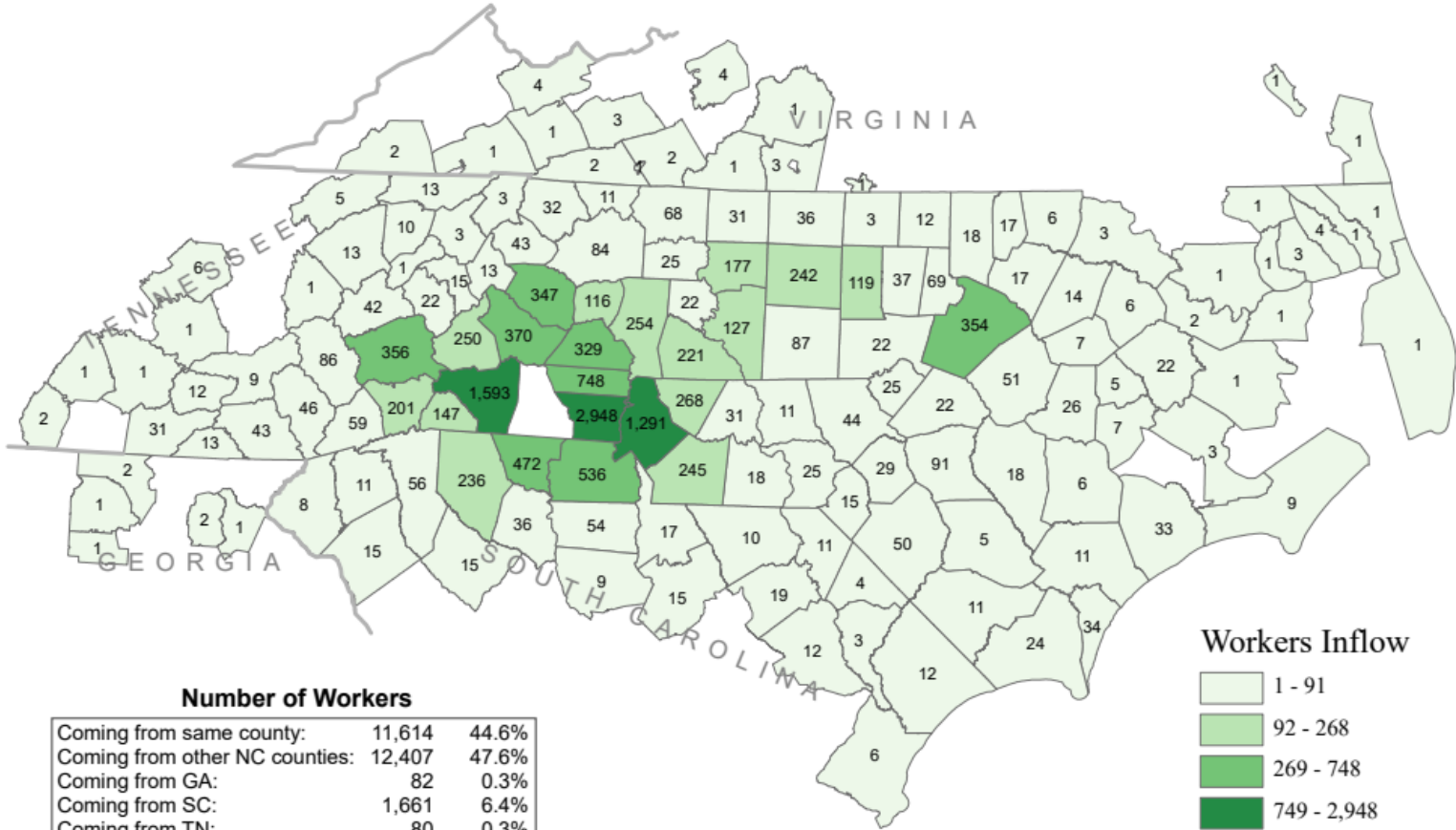
NC DEPARTMENT
of COMMERCE
LABOR & ECONOMIC
ANALYSIS

Cleveland County Commuting Report, Private Primary Jobs 2019

OVERALL INFLOW OUTFLOW ANALYSIS

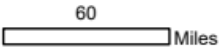
Resident Flow (Live/Work in Cleveland County)	Jobs
Resident Live/Work in Cleveland County	11,614
Worker inflow	14,443
Resident Outflow	21,267
Net Flow	-6,824

Workers Commuting into Cleveland County, North Carolina

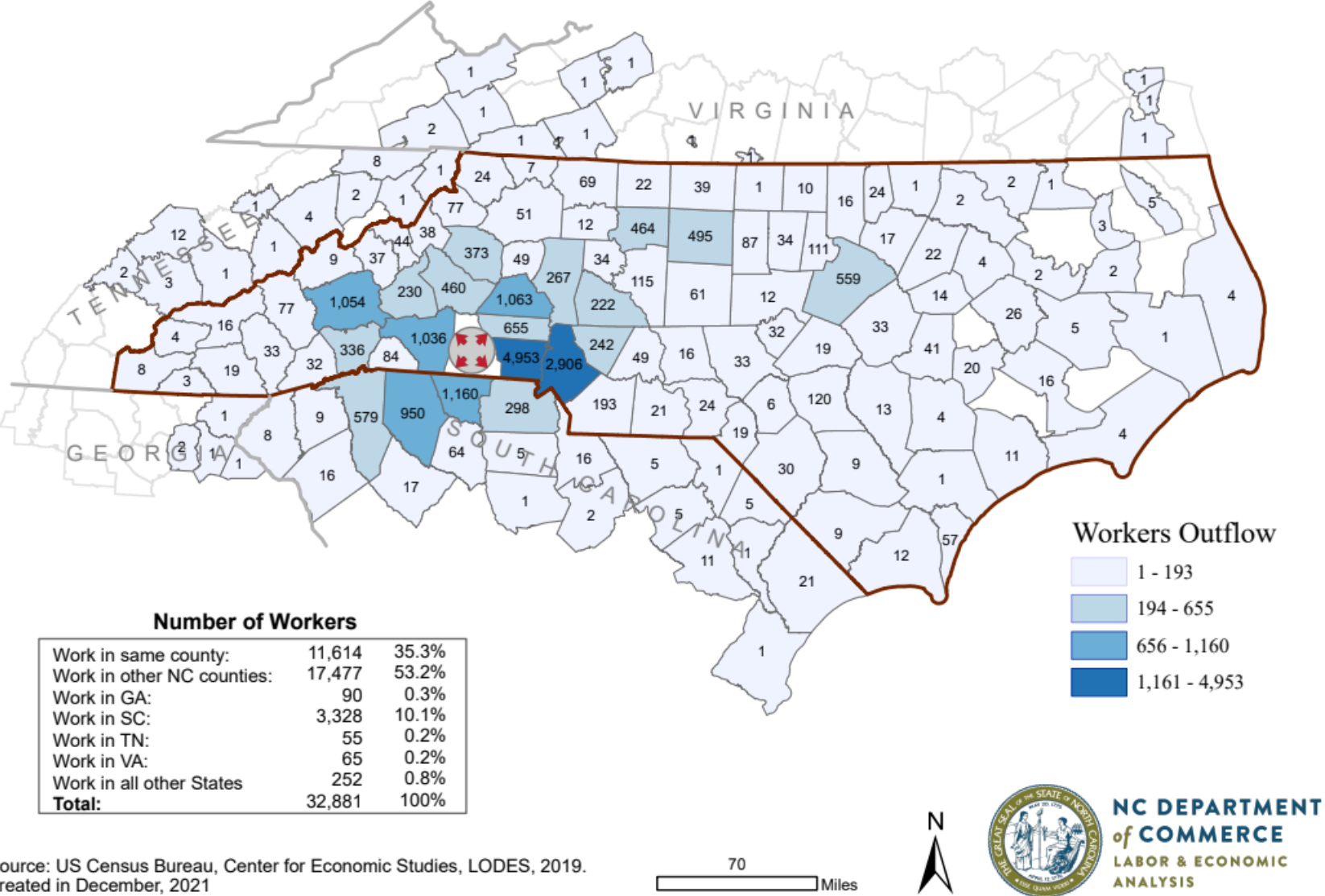


Number of Workers		
Coming from same county:	11,614	44.6%
Coming from other NC counties:	12,407	47.6%
Coming from GA:	82	0.3%
Coming from SC:	1,661	6.4%
Coming from TN:	80	0.3%
Coming from VA:	42	0.2%
Coming from all other States:	171	0.7%
Total:	26,057	100%

Data Source: US Census Bureau, Center for Economic Studies, LODES, 2019.
Map Created in December, 2021



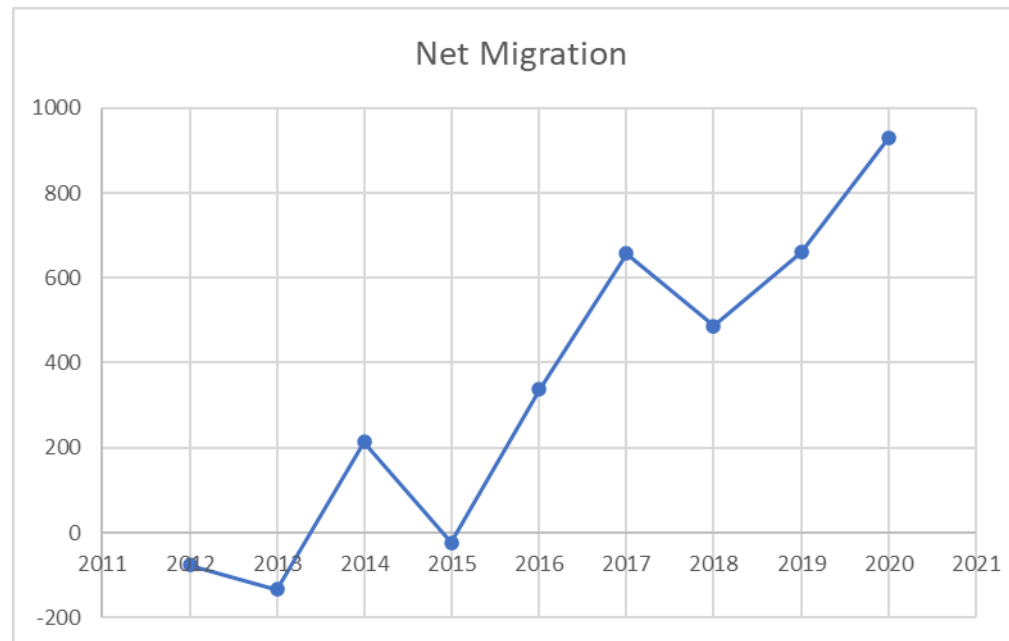
Workers Commuting out of Cleveland County, North Carolina



Data Source: US Census Bureau, Center for Economic Studies, LODES, 2019.
Map Created in December, 2021

Migration

Inbound	Outbound	Net Migrations
4,499	3,570	929



Migration

County	Inbound Migrations	Outbound Migrations	Net Migrations
Gaston County, NC	1,394	996	398
Mecklenburg County, NC	384	203	181
Rutherford County, NC	346	305	41
Iredell County, NC	37	0	37
Buncombe County, NC	37	2	36



REVISIONS TO CHAPTER 92

Options to Proceed:

1. Motion to adopt ordinance #221108.01 amending Chapter 92 as presented
2. Motion to amend Chapter 92 with changes discussed
3. Motion to table for further review
4. No motion needed to leave Chapter 92 as it currently reads

Staff and Planning Board recommend Option 1

SUMMARY

Staff has reviewed ordinances from towns across the state regarding animals, livestock, chickens, etc. We also sought feedback from the Planning Board and Town Council on the revision of this ordinance. Feedback received was that the ordinance needed to be more restrictive and include more enforceability.

Currently, the Town contracts with Cleveland County Animal Services for 'animal control' services. This has been a long-standing partnership and the Town does not wish to take on this responsibility from the County. However, we do recognize the need to be able to have some control over situations in town and not solely rely on another agency whose base of operations is outside of our corporate limits.

Additionally, Cleveland County Animal Services recently (within the last year) overhauled its animal ordinance. The Boiling Springs chapter referenced, almost in its entirety, the *former* Cleveland County ordinance.

Therefore, staff recommends removing the majority of the language in Chapter 92 and replacing it with a reference to adopting the Cleveland animal ordinance and all of its parts. To give us the ability to have more control, staff has recommended adding a section (92.04 Restraint and Keeping of Animals; penalty) that allows the town manager or their designee to enforce those regulations outlined within the corporate boundaries of the town. Included with this is language to 'include but not limit' certain situations for broader authority and an increasing fine structure that can also require the containment of the animals.

For your reference, we have included a 'redline' copy and a 'clean' copy of the proposed changes to Chapter 92.

MATERIALS PROVIDED

- Redline and Clean copy of proposed changes

CHAPTER 92. ANIMALS

Sec. 92.01. County ordinance; enforcement.

- (a) The Cleveland County ordinances regulating animals shall be applicable within the corporate limits of the Town of Boiling Springs. The county animal services department as established and governed by county ordinance shall enforce such county ordinance within the town limits with the full cooperation of the town.
- (b) In addition to the Cleveland County ordinance, the town manager or their designee may enforce the regulations set forth in Section 92.04 as needed to maintain the general welfare of the residents of the town without interfering with the regulations set forth in the Cleveland County ordinance.
- (c) Where any conflict appears between the provisions of this chapter and such county ordinance, the more restrictive shall apply and control.

Sec. 92.02. Exclusions.

The provisions of this chapter shall not apply to any sworn law enforcement officer or law enforcement dog acting in the course of his/her normal duties as an employee of the town, county, state or other law enforcement agency working in conjunction with the police department.

Sec. 92.03. Territorial application.

This chapter shall apply only within the corporate boundaries of the town as the same may exist and as may hereafter be amended by the town council.

Sec. 92.04. Restraint and Keeping of Animals; penalty.

- (a) The keeping of any animal in such manner or in such numbers as to constitute a public nuisance is hereby prohibited. For the purposes of this section, a public nuisance shall include, but not be limited to, the following:
 - 1) Having an animal that disturbs the rights of, threatens the safety of, or injures a member of the general public, or interferes with the ordinary use and enjoyment of their property;
 - 2) The keeping of any animal which by continued or repeated loud noises would disturb the quiet, comfort or repose of a reasonably prudent person;
 - 3) No animal shall be kept, maintained or allowed off of the premises owned or controlled by its owner or keeper unless it is then controlled by a tether, leash or similar device.
 - 4) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers, damaging gardens, flowers, or vegetables, or defecating upon the property of another;
 - 5) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person;
 - 6) The keeping, possession, harboring or feeding of animals; wild, feral or domesticated, which threaten the public health, safety and welfare of the community;
- (b) Enforcement by civil citations shall be in accordance with the following:

- 1) Civil citations may be used to enforce any section of this chapter. Such citations may be used independently or in conjunction with any other enforcement method. Violations related to enforcement of ordinances through interlocal agreements may only be enforced by the issuance of a civil citation.
- 2) Each day that an ongoing violation continues shall be considered a separate and distinct violation from any previous or subsequent violation, and each separate violation may be the basis for a citation.
- 3) The penalties assessed by civil citations subject to an escalating civil penalty must be evidenced by the issuance of a civil citation or a criminal conviction arising from a prior offense before the next escalated penalty for subsequent offenses may be assessed. Penalties shall only escalate when the same offense has been committed by the same owner in the past. No offense occurring more than ten (10) years before the current offense shall be considered.
- 4) In addition to civil citations that are subject to an escalating civil penalty, violations determined to be a repeated offense may also be enforced using the following methods:
 - i. First offense: Warning issued.
 - ii. Second offense: \$100 fine.
 - iii. Third offense: \$200 fine and/or restraint measures of the offending animal
 - iv. Fourth offense: \$500 fine and/or restraint measures of the offending animal

Sec. 92.05. Additional remedies.

In addition to the penalties provided in this chapter, enforcement of this chapter may be by injunction, restraining order or order of abatement from a court of competent jurisdiction, as provided by G.S. § 160A-175(d) and (e).

CHAPTER 92. ANIMALS

~~Sec. 92.01. Definitions.~~

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

~~*Animal control department* means the Cleveland County Animal Control Department.~~

~~*Animal control officer* means that person appointed by the Cleveland County Health Director having all the authority granted within the Cleveland County Ordinance or granted by the General Statutes of the State of N.C. to animal control officers.~~

~~*Animal shelter* means the Cleveland County Animal Shelter or any premises designated by the county for the purpose of impounding and caring for all animals in accordance with the provisions of this chapter.~~

~~*At large* means off the premises of the owner or custodian of the animal, and not under the immediate physical control of the owner or custodian.~~

~~*Cleveland County ordinance* means the "Ordinance Regulating the Keeping of Dogs, Cats and Other Animals within the County of Cleveland, North Carolina" as adopted and amended by the Cleveland County Town council.~~

~~*Dangerous dog* means a dog that without provocation has killed or inflicted severe injury on a person; or determined by the animal control officer to be potentially dangerous because the dog has engaged in one or more of the behaviors listed under the definition *potentially dangerous dog* in this section. any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.~~

~~*Dog* means male, female or neutered canine.~~

~~*Immediate physical control* means an animal is restricted in its movement by a tether, leash, chain or other such device.~~

~~*Keeper* means any person, not an owner, who shall have possession or control of any dog by permission of and with knowledge of the dog's owner, and who shall be charged by the owner, whether explicitly or tacitly, with the care of such dog, either gratis or for compensation.~~

~~*Keeping, maintenance* means allowing a dog to remain on or about one's premises or providing food, shelter, protection, personal care or any combination of same to such dog.~~

~~*Owner* means any person, group of persons, firm, partnership or corporation owning, keeping, having charge of, sheltering, feeding, harboring or taking care of any animal. The owner is responsible for the care, actions and behavior of his/her dog(s). In the event that the owner or keeper of a dog is a minor, the parent or guardian of such minor shall be held liable for noncompliance with the provisions of this chapter.~~

~~*Owner's real property* means any real property owned or leased by the owner of a dog, but does not include any public right of way or a common area of a condominium, apartment complex, or townhouse development.~~

~~*Person in control of a dog* means the owner, keeper or any other person possessing actual physical control over the conduct, whereabouts, care of behavior of a dog by permission of the owner, by force of law or otherwise.~~

~~*Potentially dangerous dog* means a dog that the animal control officer determines to have inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or~~

~~killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or approached a person when not on the owners property in a vicious or terrorizing manner in an apparent attitude of attack.~~

~~Restrain means a dog is under restraint within the meaning of this chapter if it is controlled by means of a chain, leash, or other like device; on or within a vehicle being driven or parked; within a secure enclosure; or within the dwelling, house or other structure of the owner or keeper.~~

~~Secure enclosure means any area enclosed or limited by any type fence, wall, barrier or other form of enclosure, and which is used at anytime to confine or limit the mobility of any dog.~~

~~Threatening disposition means a demonstrated tendency to threaten or habit of threatening imminent attack by charging, advancing upon; snarling, snapping at or lunging at; or otherwise apparently attempting to injure or intimidate any person or animal without reasonable provocation or justification.~~

~~Town means the Town of Boiling Springs, North Carolina.~~

~~Vicious means a predisposition or tendency to attack, bite, snap at, injure or display overt aggression toward humans or animals without reasonable provocation or justification.~~

~~{Ord. of 6-30-92; Ord. of 6-27-00; Ord. No. 070807.01 , pt. 1, 8-7-07}~~

Sec. 92.02. Exclusions.

The provisions of this chapter shall not apply to any sworn law enforcement officer or law enforcement dog acting in the course of his/her normal duties as an employee of the town, county, state or other law enforcement agency working in conjunction with the police department.

(Ord. of 6-30-92; Ord. No. 070807.01 , pt. 1, 8-7-07)

Sec. 92.03. Territorial application.

This chapter shall apply only within the corporate boundaries of the town as the same may exist and as may hereafter be amended by the town council.

(Ord. of 6-30-92; Ord. No. 070807.01 , pt. 1, 8-7-07)

~~Sec. 92.04. Presumption of ownership.~~

~~The purchase of rabies or any other vaccinations for any dog or the affixing to any dog of any type of collar, harness, choke chain, tax tag, rabies vaccination tag or any form of identification tag or device bearing such person's name, address or phone number or other means of identification, by any person, shall constitute prima facie evidence of the ownership, keeping or control of such dog by such person.~~

~~(Ord. of 6-30-92; Ord. No. 070807.01 , pt. 1, 8-7-07)~~

Sec. 92.05. Restraint and Keeping of dogsAnimals; penalty.

(a) The keeping of any animal in such manner or in such numbers as to constitute a public nuisance is hereby prohibited. For the purposes of this section, a public nuisance shall include, but not be limited to, the following:

- 1) Having an animal that disturbs the rights of, threatens the safety of, or injures a member of the general public, or interferes with the ordinary use and enjoyment of their property;

- 2) The keeping of any animal which by continued or repeated loud noises would disturb the quiet, comfort or repose of a reasonably prudent person;
- 3) No animal shall be kept, maintained or allowed off of the premises owned or controlled by its owner or keeper unless it is then controlled by a tether, leash or similar device.
- 4) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers, damaging gardens, flowers, or vegetables, or defecating upon the property of another;
- 5) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person;
- 6) The keeping, possession, harboring or feeding of animals; wild, feral or domesticated, which threaten the public health, safety and welfare of the community;

(b) Enforcement by civil citations shall be in accordance with the following:

- 1) Civil citations may be used to enforce any section of this chapter. Such citations may be used independently or in conjunction with any other enforcement method. Violations related to enforcement of ordinances through interlocal agreements may only be enforced by the issuance of a civil citation.
- 2) Each day that an ongoing violation continues shall be considered a separate and distinct violation from any previous or subsequent violation, and each separate violation may be the basis for a citation.
- 3) The penalties assessed by civil citations subject to an escalating civil penalty must be evidenced by the issuance of a civil citation or a criminal conviction arising from a prior offense before the next escalated penalty for subsequent offenses may be assessed. Penalties shall only escalate when the same offense has been committed by the same owner in the past. No offense occurring more than ten (10) years before the current offense shall be considered.
- 4) In addition to civil citations that are subject to an escalating civil penalty, violations determined to be a repeated offense may also be enforced using the following methods:
 - i. First offense: Warning issued.
 - ii. Second offense: \$100 fine.
 - iii. Third offense: \$200 fine and/or restraint measures of the offending animal
 - iv. Fourth offense: \$500 fine and/or restraint measures of the offending animal

- ~~(a) No dog shall be kept, maintained or allowed off of the premises owned or controlled by its owner or keeper unless it is then controlled by a tether, leash or similar device.~~
- ~~(b) In addition to all other penalties prescribed by law, a dog is subject to impoundment and all other applicable provisions of the Cleveland County Animal Control Ordinance if the dog is found off of the premises of its owner or keeper and unrestrained as provided for in paragraph (a) above.~~
- ~~(c) The penalties for violation of this section shall be as follows:~~
- ~~(1) First violation \$ 50.00~~
 - ~~(2) Second violation 75.00~~
 - ~~(3) Third and subsequent violations 100.00~~
- ~~(d) The Cleveland County Animal Control Department is authorized to collect, at the time of redemption, an appropriate penalty if the animal was impounded due to violation of this section.~~

~~(e) For the purpose of determining how many offenses have been committed, and for determining the appropriate penalty, each offense shall remain on the record of the Cleveland County Animal Control Department for a period of two years. Subsequent to two years expiration, an offense shall be removed from the record and no longer used for purposes of calculation of penalties.~~

~~(Ord. of 6-30-92; Ord. of 6-27-00; Ord. No. 070807.01, pt. 1, 8-7-07)~~

Sec. 92.06. County ordinance; enforcement.

~~(a) (a) The Cleveland County ordinances regulating animals Animal Control Ordinance as it pertains to animal control shall be applicable within the corporate limits of the Town of Boiling Springs town. The county animal ~~control~~ services department as established and governed by county ordinance shall enforce such county ordinance within the town limits with the full cooperation of the town.~~

~~(b) In addition to the Cleveland County ordinance, the town manager or their designee may enforce the regulations set forth in Section 95.05 as needed to maintain the general welfare of the residents of the town without interfering with the regulations set forth in the Cleveland County ordinance.~~

(b) Where any conflict appears between the provisions of this chapter and such county ordinance, the more restrictive shall apply and control.

(Ord. of 6-30-92; Ord. of 6-27-00; Ord. No. 070807.01, pt. 1, 8-7-07)

~~Sec. 92.07. County ordinance adopted.~~

~~The Cleveland County Animal Control Ordinance is hereby adopted and incorporated by reference as if fully set out herein.~~

~~(Ord. of 6-30-92; Ord. of 6-27-00; Ord. No. 070807.01, pt. 1, 8-7-07)~~

Sec. 92.08. Additional remedies.

In addition to the penalties provided in this chapter, enforcement of this chapter may be by injunction, restraining order or order of abatement from a court of competent jurisdiction, as provided by G.S. § 160A-175(d) and (e).

(Ord. of 6-30-92; Ord. No. 070807.01, pt. 1, 8-7-07)



THE TOWN OF BOILING SPRINGS, NC TOWN COUNCIL ORDINANCE #221108.01

NOW, THEREFORE, BE IT HEREBY ORDAINED by the Town Council of the Town of Boiling Springs that PART II - CODE OF ORDINANCES TITLE IX. - GENERAL REGULATIONS CHAPTER 92. ANIMALS, be and is hereby amended as follows:

CHAPTER 92. ANIMALS

~~Sec. 92.01. Definitions.~~

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

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~~*At large* means off the premises of the owner or custodian of the animal, and not under the immediate physical control of the owner or custodian.~~

~~*Cleveland County ordinance* means the "Ordinance Regulating the Keeping of Dogs, Cats and Other Animals within the County of Cleveland, North Carolina" as adopted and amended by the Cleveland County Town council.~~

~~*Dangerous dog* means a dog that without provocation has killed or inflicted severe injury on a person; or determined by the animal control officer to be potentially dangerous because the dog has engaged in one or more of the behaviors listed under the definition *potentially dangerous dog* in this section. any dog owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.~~

~~*Dog* means male, female or neutered canine.~~

~~*Immediate physical control* means an animal is restricted in its movement by a tether, leash, chain or other such device.~~

~~*Keeper* means any person, not an owner, who shall have possession or control of any dog by permission of and with knowledge of the dog's owner, and who shall be charged by the owner, whether explicitly or tacitly, with the care of such dog, either gratis or for compensation.~~

~~*Keeping, maintenance* means allowing a dog to remain on or about one's premises or providing food, shelter, protection, personal care or any combination of same to such dog.~~

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~~*Owner's real property* means any real property owned or leased by the owner of a dog, but does not include any public right of way or a common area of a condominium, apartment complex, or townhouse development.~~

~~*Person in control of a dog* means the owner, keeper or any other person possessing actual physical control over the conduct, whereabouts, care or behavior of a dog by permission of the owner, by force of law or otherwise.~~

~~*Potentially dangerous dog* means a dog that the animal control officer determines to have inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization; or~~



THE TOWN OF
BOILING SPRINGS
NORTH CAROLINA

~~killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or approached a person when not on the owners property in a vicious or terrorizing manner in an apparent attitude of attack.~~

~~Restrain means a dog is under restraint within the meaning of this chapter if it is controlled by means of a chain, leash, or other like device; on or within a vehicle being driven or parked; within a secure enclosure; or within the dwelling, house or other structure of the owner or keeper.~~

~~Secure enclosure means any area enclosed or limited by any type fence, wall, barrier or other form of enclosure, and which is used at anytime to confine or limit the mobility of any dog.~~

~~Threatening disposition means a demonstrated tendency to threaten or habit of threatening imminent attack by charging, advancing upon; snarling, snapping at or lunging at; or otherwise apparently attempting to injure or intimidate any person or animal without reasonable provocation or justification.~~

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(Ord. of 6-30-92; Ord. No. 070807.01 , pt. 1, 8-7-07)

Sec. 92.03. Territorial application.

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(Ord. of 6-30-92; Ord. No. 070807.01 , pt. 1, 8-7-07)

~~Sec. 92.04. Presumption of ownership.~~

~~The purchase of rabies or any other vaccinations for any dog or the affixing to any dog of any type of collar, harness, choke chain, tax tag, rabies vaccination tax or any form of identification tag or device bearing such person's name, address or phone number or other means of identification, by any person, shall constitute prima facie evidence of the ownership, keeping or control of such dog by such person.~~

~~(Ord. of 6-30-92; Ord. No. 070807.01 , pt. 1, 8-7-07)~~

Sec. 92.05. Restraint and Keeping of dogs ~~Animals~~; penalty.

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- 2) The keeping of any animal which by continued or repeated loud noises would disturb the quiet, comfort or repose of a reasonably prudent person;
 - 3) No animal shall be kept, maintained or allowed off of the premises owned or controlled by its owner or keeper unless it is then controlled by a tether, leash or similar device.
 - 4) Allowing or permitting an animal to damage the property of anyone other than its owner, including, but not limited to, turning over garbage containers, damaging gardens, flowers, or vegetables, or defecating upon the property of another;
 - 5) Maintaining animals in an unsanitary environment which results in unsightly or offensive animal waste, litter, or odor which would disturb a reasonable person;
 - 6) The keeping, possession, harboring or feeding of animals; wild, feral or domesticated, which threaten the public health, safety and welfare of the community;
- (b) Enforcement by civil citations shall be in accordance with the following:
- 1) Civil citations may be used to enforce any section of this chapter. Such citations may be used independently or in conjunction with any other enforcement method. Violations related to enforcement of ordinances through interlocal agreements may only be enforced by the issuance of a civil citation.
 - 2) Each day that an ongoing violation continues shall be considered a separate and distinct violation from any previous or subsequent violation, and each separate violation may be the basis for a citation.
 - 3) The penalties assessed by civil citations subject to an escalating civil penalty must be evidenced by the issuance of a civil citation or a criminal conviction arising from a prior offense before the next escalated penalty for subsequent offenses may be assessed. Penalties shall only escalate when the same offense has been committed by the same owner in the past. No offense occurring more than ten (10) years before the current offense shall be considered.
 - 4) In addition to civil citations that are subject to an escalating civil penalty, violations determined to be a repeated offense may also be enforced using the following methods:
 - i. First offense: Warning issued.
 - ii. Second offense: \$100 fine.
 - iii. Third offense: \$200 fine and/or restraint measures of the offending animal
 - iv. Fourth offense: \$500 fine and/or restraint measures of the offending animal
- ~~(a) No dog shall be kept, maintained or allowed off of the premises owned or controlled by its owner or keeper unless it is then controlled by a tether, leash or similar device.~~
- ~~(b) In addition to all other penalties prescribed by law, a dog is subject to impoundment and all other applicable provisions of the Cleveland County Animal Control Ordinance if the dog is found off of the premises of its owner or keeper and unrestrained as provided for in paragraph (a) above.~~
- ~~(c) The penalties for violation of this section shall be as follows:~~
- ~~(1) First violation \$ 50.00~~
 - ~~(2) Second violation 75.00~~
 - ~~(3) Third and subsequent violations 100.00~~
- ~~(d) The Cleveland County Animal Control Department is authorized to collect, at the time of redemption, an appropriate penalty if the animal was impounded due to violation of this section.~~



~~(e) For the purpose of determining how many offenses have been committed, and for determining the appropriate penalty, each offense shall remain on the record of the Cleveland County Animal Control Department for a period of two years. Subsequent to two years expiration, an offense shall be removed from the record and no longer used for purposes of calculation of penalties.~~

~~(Ord. of 6-30-92; Ord. of 6-27-00; Ord. No. 070807.01, pt. 1, 8-7-07)~~

Sec. 92.06. County ordinance; enforcement.

~~(a) (a) The Cleveland County ordinances regulating animals Animal Control Ordinance as it pertains to animal control shall be applicable within the corporate limits of the Town of Boiling Springs, town. The county animal control services department as established and governed by county ordinance shall enforce such county ordinance within the town limits with the full cooperation of the town.~~

~~(b) In addition to the Cleveland County ordinance, the town manager or their designee may enforce the regulations set forth in Section 95.05 as needed to maintain the general welfare of the residents of the town without interfering with the regulations set forth in the Cleveland County ordinance.~~

(b) Where any conflict appears between the provisions of this chapter and such county ordinance, the more restrictive shall apply and control.

(Ord. of 6-30-92; Ord. of 6-27-00; Ord. No. 070807.01, pt. 1, 8-7-07)

~~Sec. 92.07. County ordinance adopted.~~

~~The Cleveland County Animal Control Ordinance is hereby adopted and incorporated by reference as if fully set out herein.~~

~~(Ord. of 6-30-92; Ord. of 6-27-00; Ord. No. 070807.01, pt. 1, 8-7-07)~~

Sec. 92.08. Additional remedies.

In addition to the penalties provided in this chapter, enforcement of this chapter may be by injunction, restraining order or order of abatement from a court of competent jurisdiction, as provided by G.S. § 160A-175(d) and (e).

(Ord. of 6-30-92; Ord. No. 070807.01, pt. 1, 8-7-07)



THE TOWN OF
BOILING SPRINGS
NORTH CAROLINA

Item 1.

Adopted this 8th day of November 2022.

X

Daniel Thomas
Mayor

Attest:

X

Noah Saldo
Town Clerk



BIKE/SCOOTER RENTAL PROGRAM

Staff requests feedback on moving forward with micromobility program.

SUMMARY

Staff have tried to brainstorm various ways to be more connected to the Broad River Greenway and to allow students on Gardner-Webb's campus to have more mobility around town (if they don't have a vehicle on campus). While attending the International Town and Gown Association's annual conference last year, I learned of the potential for partnership with a company called [Bird Micromobility](#). They offer solutions for individuals to 'rent' bikes and scooters (think "Citi Bikes" or Lime Scooters) through a mobile app. They have assets in Charlotte, [Matthews](#), [Gastonia](#), and [other locations](#) across the state.

Town manager has had preliminary conversations with Gardner-Webb about the idea. The Dean of Students and the Student Government Association are receptive to the idea. We share the concern of not wanting scooters and bikes to look cluttered and/or abandoned around town. Among other items, there are provisions in the contract for a specific limit on the number of units, 'resetting of units' each night, hours of operation, keeping units charged, and an easy cancelation clause if we decide it's not for us.

If Council is open to the idea, we will proceed and discuss further with GWU, iron out an ordinance, and any subsequent contract details for you all to review in December.

A representative from Bird has been very communicative and we could set up a virtual meeting to review any questions/concerns if needed.

MATERIALS PROVIDED

- **Boiling Springs-specific proposal**
- **Draft Agreement from Bird**
- **Draft Ordinance (modeled after Gastonia)**
- **Highlights from Gastonia's 'first year'**



Item 1.

Hello, Boiling Springs, NC

2021



72

Our Mission

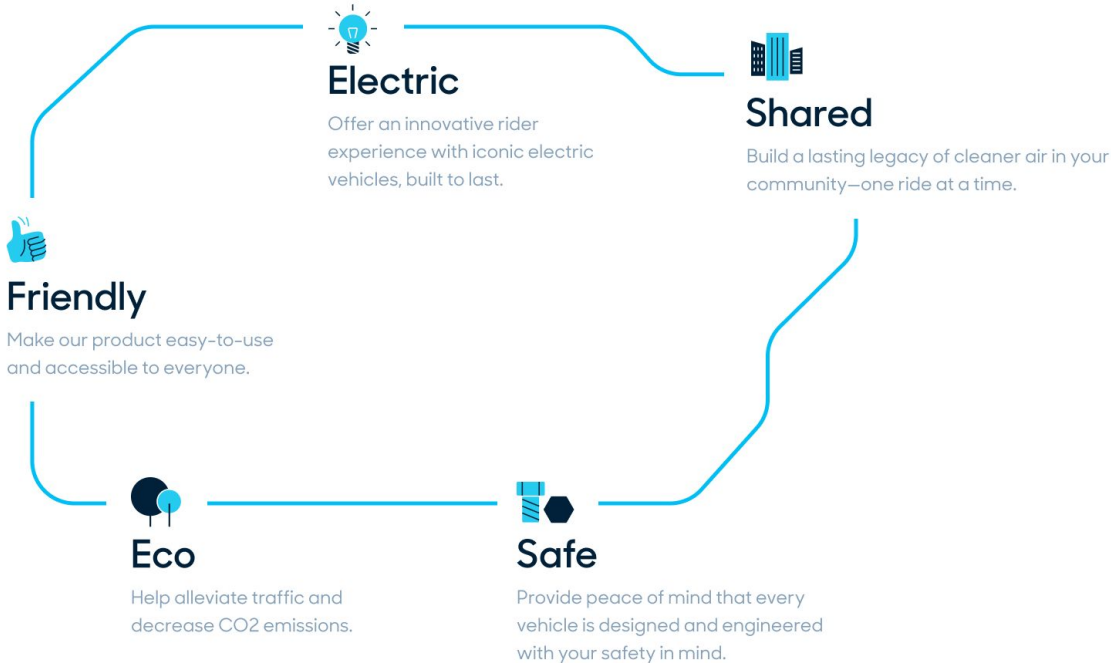
Improve our
communities and
the lives of those
around us.



Item 1.

What is Bird?

A micromobility company with a focus in shared electric vehicles.

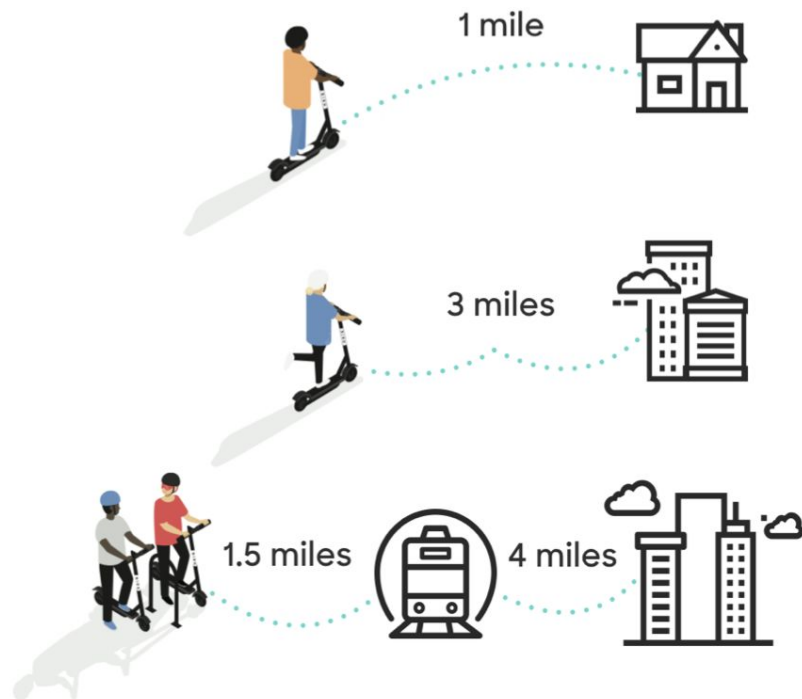


Item 1.



First Mile Last Mile

Great solution for quick trips



BIRD

Get to School or Work

Don't hassle to re-park

Connect to transit or go one way

Bird's Story

Founded in 2017, Bird saw instant success as a pioneer in the space.

Today....

5 Continents.

25 Countries.

300 Cities.

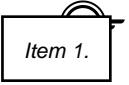
100M+ Rides.

Listed on **NYSE BRDS**

B I R D



Boiling Springs+ Bird



Safety is #1

Bird leads the industry in safety. Safety is deeply embedded across all components of our business from the technology we build for our vehicles, to our in app experience to our 360 marketing campaigns.

Improved Parking Enforcement

Our new virtual docks technology and commitment to invest in physical parking locations are designed to keep sidewalks clear and enforce no parking zones.

Rider Assist Technology

Bird is the only scooter operator to utilize automotive grade safety and rider assist technology to ensure both rider and pedestrian safety including anti-skid detection which we can use to identify and block bad actors from our platform.

Respected Global Brand

The pioneer of the industry, Bird operates in 350+ markets worldwide, across 25 countries.

Transportation for All

We offer the most expansive and inclusive pricing options to make our service accessible to everyone.

Most Advanced Vehicles

Our vehicles come equipped with rider assist technology to keep both riders and pedestrians safe in addition to robust dual kickstands and anti-tip technology for neat and orderly docking.

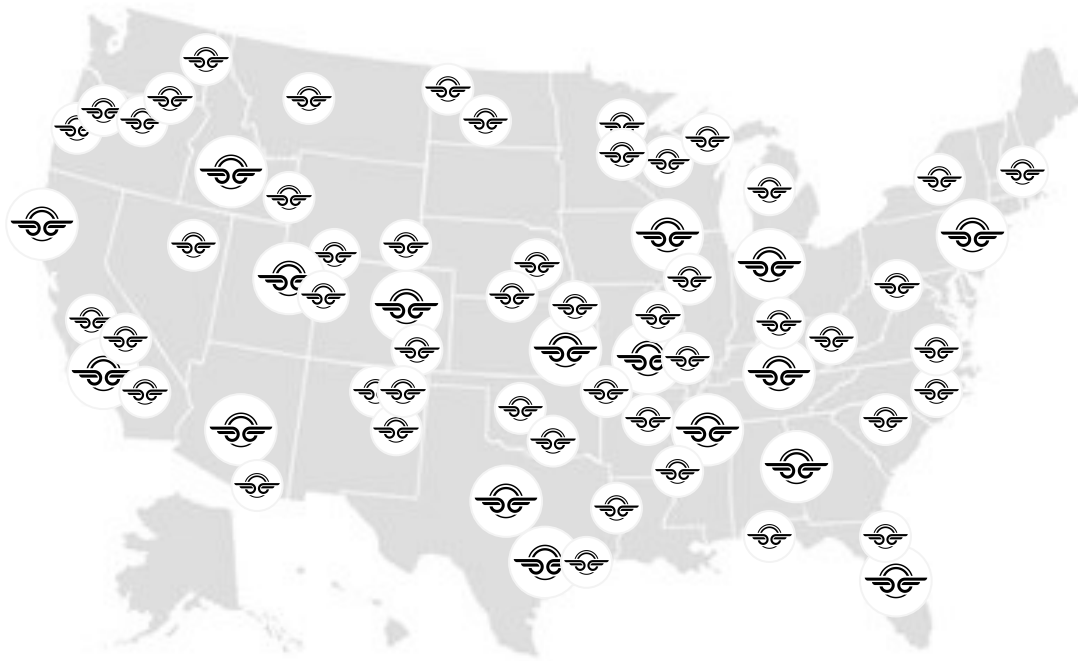
Data, Data, Data

We invest considerably in sharing data to improve our operations, address any compliance issues proactively and share helpful insights about infrastructure, local business integrations, frequent ride patterns and more.

Responsible Fleet Management

We manage our operations and deployment to avoid oversaturation and mitigate clutter complaints swiftly. Our new virtual docks technology can adapt in real time to restrict or allow deployment for special events or as needed.

Cities Big and Small



BIRD

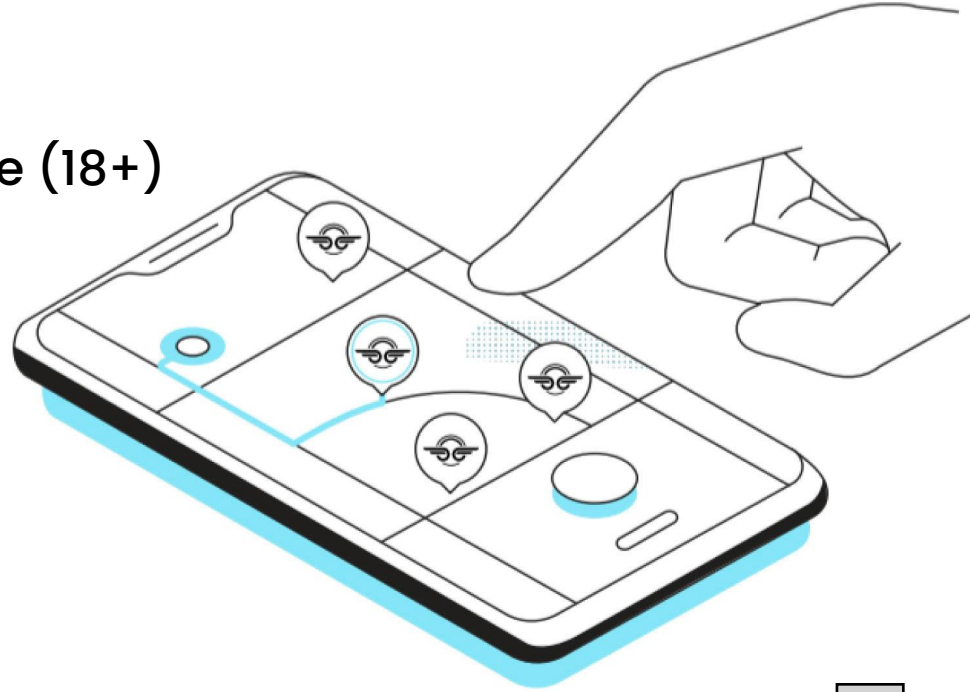
City	Population
Brewton, AL	5,276
Andalusia, AL	8,805
Sebring, FL	10,729
Avon Park, FL	10,905
Cambridge, MD	12,376
Martinsburg, WV	17,404
Fort Walton Beach, FL	22,084
Salisbury, MD	32,807
Warren, OH	39,562
Manassas, VA	41,501
Springfield, OH	59,208

Item 1.

How it works

Item 1.

1. Download the Bird app
2. Sign user agreement & verify age (18+)
3. Add payment
4. Complete educational tutorials
5. Enjoy the ride!



The Dockless Model

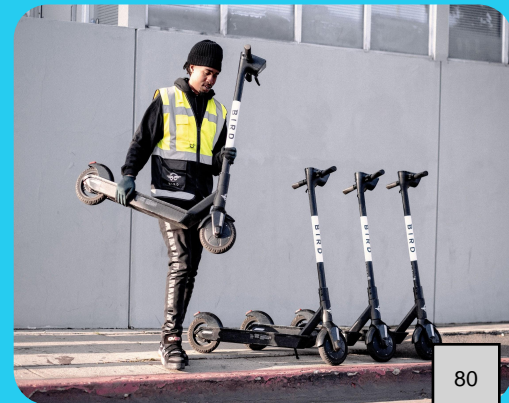
Follow the rules of the road like a bike

Freedom to choose where to pick up and drop off

Available for use within the designated 'operating zone'

Vehicle waits for next rider or is moved by Bird

B I R D



BirdThree

Battery	36 V, 21.0 Ah 10S6P
Charge Time	5.8 hrs
Range	35 miles
Braking	Regen; Drum (front), disc (r)
Wheels	10" pneumatic
Top Speed	15 mph
Dimensions	47.7 in. x 19.3 in. x 46.8 in.
Lights	Front / Rear LEDs



Pricing

Standard Pricing

\$1+ a per minute fee. Averaging ~\$6 a ride.

Equitable Pricing Options

Discounts available to those in government assistance programs, veterans, senior citizens, healthcare workers, students with pell grants, etc.



Significant economic benefits of micromobility

Item 1.



Supporting Local Businesses

Over 50% of riders report using a Bird to visit a local business, and the majority of those (70%+) said riding a Bird made them more likely to visit that business.¹



Job Creation

To manage local operations, Bird partners with full time Fleet Managers, responsible for on-the-ground fleet logistics, care, and community education.



Expanding Job Access

By doubling or tripling how far people can travel to access public transit, Bird expands job access without lengthening commutes or adding cars to the road.



Reduction in GHG Emissions

Each Bird Two prevents an estimated 103kg of greenhouse gas emissions during its lifetime.²

Geo-Zone Technology

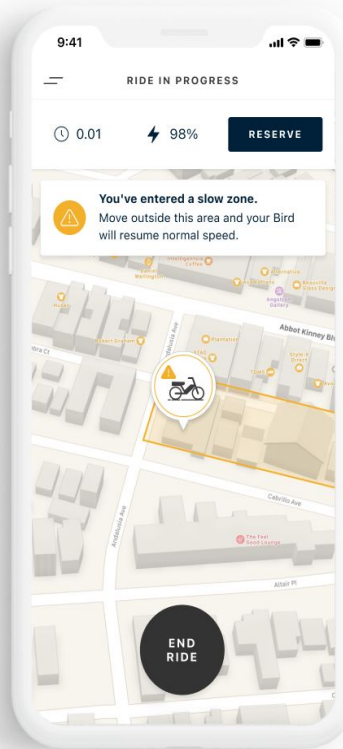
All vehicles are tracked with GPS.

When riders enter a designated geo-zone, vehicles follow set rules.

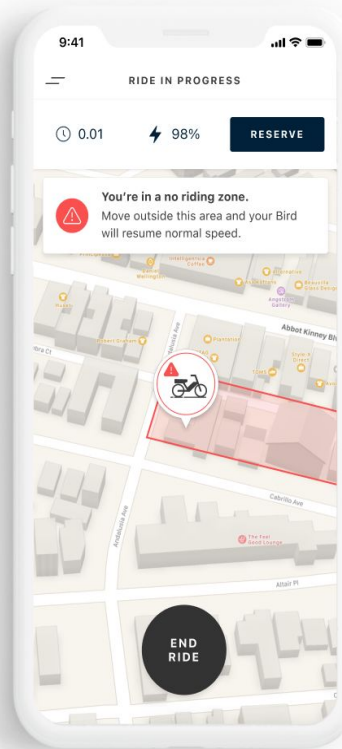
Vehicles will slow down or stop, and riders are notified by a vehicle sound and an in-app notification.

BIRD

Slow Zone



No-Ride Zone



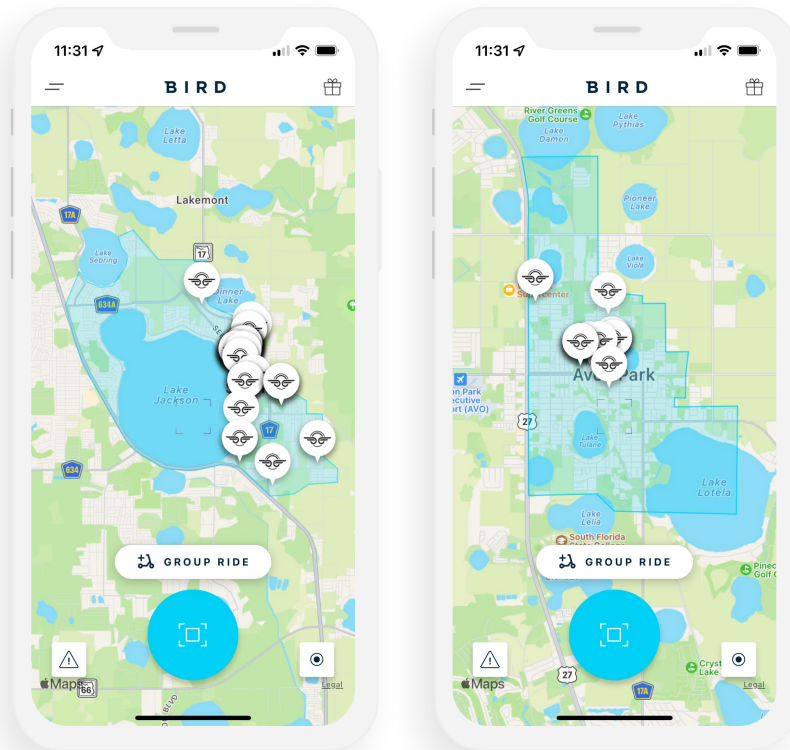
Item 1.

Operating Zone

Scooters will only be active within the city's boundary (highlighted in blue)

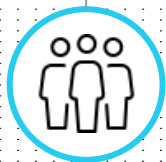
Operating Zone can be tailored based on city design

Vehicles will become inoperable should they leave the zone



Focus on Reducing Clutter

Bird's future relies on properly integrating dockless micromobility into our communities



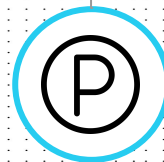
Educate Riders



Nudge Desired Behaviors



Local Presence



Make Space



Leverage Data

Safety is our top priority.

We are committed to providing safe mobility—as evidenced by our industry-leading safety record.

We hold ourselves to strict safety standards, and develop products and tools that protect riders and non-riders.



After 4 years and millions of rides taken on our shared fleets, we are pleased to report a global injury Incidence rate of 1:50K rides, **less than half the medical incident rate of cars.**

Bird's safety focus has driven a safety record superior to cars and micromobility competition.

Documented Medical Incident Rate ^{1,2}



1:50K



1:50K



1:20K



1:10K

1. Injury incidence rate calculated as the percentage of total trips with incidents or accidents reported which required medical treatment. Documented injury rates for bicycles, automobiles, and motorcycles reflect national averages, whereas Bird's documented injury rate (1:50K) reflects Bird's global average incidence rate.
2. Sources include Bird internal ride data, The U.S. Consumer Product Safety Commission, The U.S. National Highway Traffic Safety Administration, and The U.S. Bureau of Transportation Statistics

Fleet Manager Model

Developed in partnership with cities, our fleet management approach prioritizes compliance and fleet regulation.

How it works

- We partner with cities directly and are the day-to-day contact
- We thoroughly vet local fleet operators to support logistics on-the-ground
- FMs are given small fleet and then scale up based on compliance metrics and other KPIs
- **Zero debt**, do not need to buy vehicles, no cost to leave the program
- We tightly regulate our fleet operations, and develop features, such as "Ride Ready," to ensure compliance with local regulations



Support

Item 1.



80% retention rates
(v 30-40% for other contractor or hourly models) Many also employ support staff



Operational experts, experience in vehicle management and logistics



Create local businesses opportunities within the community

Data Dashboard

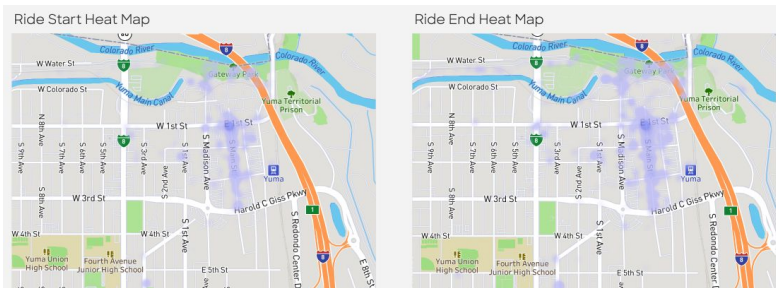
You get access too:

- **Report Summary:**

- Anonymized Rider behaviors such as frequency and length of rides
- Number and length of rides segmented in various dimensions
- Available Birds and number of rides/Bird

- **Map view:** The map will provide a view of the current location of vehicles and nests, with the ability to restrict the view by specific areas

- **Usage heatmaps:** Ride start & end, segmented by various dimensions



Proposal

Item 1.

- ✓ **No Investment Required**
- ✓ **Dedicated Account Manager**
- ✓ **Data Dashboard provided**
- ✓ **# of Vehicles:** 50-75 (means ⅓ of fleet on street during peak ridership, others charging at FM location)
- ✓ **Revenue Sharing - \$.15 per ride**
- ✓ **Specific operation zone**
- ✓ **Launch Date:** July '22
- ✓ **Approval Documentation:** MOU/OA



Let's Ride

Jeremy Lynch
Sr Account Executive
jlynch@Bird.co



PILOT OPERATING AGREEMENT

This Pilot Operating Agreement (the “Agreement”) is entered into by and between Bird Rides, Inc., located at 406 Broadway #369 Santa Monica, CA 90401 (“Company”), and CITY located at _____ (“City”) as of [] __, 2022.

1. Statement and Purpose

The purpose of this Agreement is to establish interim rules and regulations governing the pilot operation of an Electric Bike and Stand-up Electric Scooter sharing system within the City while this Agreement is in effect (the “Pilot”), and to ensure that the Pilot is consistent with the safety and well-being of bicyclists, pedestrians, and other users of the public rights-of-way.

2. Scope

This Agreement and its terms apply to any proposed deployment of Electric Bike and/or Stand-up Electric Scooter sharing systems within City’s jurisdictional boundaries. No person shall deploy an Electric Bike and/or Stand-up Electric Scooter sharing system in the City in violation of this Agreement. This Agreement and the Pilot shall remain in effect for a period of twelve month and shall automatically renew for successive twelve month periods unless either party provides written notice to the other of its intention not to renew at least ninety (90) days prior to the end of the then-current term.

3. Operating Regulations

- a. Company, and/or its service providers, agents or assigns, shall be responsible for operating an Electric Bike and Stand-up Electric Scooter sharing system in the City with the below requirements.
- b. “Electric Bike” shall mean a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 h.p.), whose maximum speed on a paved level surface, when powered solely by such a motor when ridden by an operator who weighs 170 pounds, is less than 20 mph.
- c. Stand-up Electric Scooter shall mean a device weighing less than 150 pounds, that (i) has handlebars and an electric motor, (ii) is solely powered by the electric motor and/or human power and (iii) has a maximum speed of no more than 20 mph on a paved level surface when powered solely by the electric motor.
- d. While this Agreement and Pilot are in effect, Company shall pay the City a revenue-share of \$0.15 per ride to help fund protected bike lanes within the pilot areas. Company shall pay the revenue-share to the City on a quarterly basis, in arrears within 30 days from the end of the preceding month.
- e. Except as otherwise provided herein, City shall regulate the operation of Electric Bikes and Stand-up Electric Scooters in a manner no more restrictive than City’s regulation of bicycles.

- f. Electric Bikes and Stand-up Electric Scooters are to be ridden on streets, and where available, in bike lanes and bike paths. Electric Bikes and Stand-up Electric Scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Users of Electric Bikes and Stand-up Electric Scooters shall be 18 or older. Users of Electric Bikes and Stand-up Electric Scooters who violate these provisions may be fined by City consistent with fines for cyclists.
- g. Company shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Stand-up Electric Scooter for members of the public to make relocation requests or to report other issues with devices.
- h. Hours of operation when Company's Electric Bikes and Stand-up Electric Scooters will be made available to rent in City are 5 a.m. to midnight (local time).

4. Parking

- a. Users of Electric Bikes and Stand-up Electric Scooters shall park devices upright in the furniture zone of the sidewalk, beside a bicycle rack or in another area specifically designated for bicycle parking, or on the street next to an unmarked curb.
- b. Users shall not park Electric Bikes or Stand-up Electric Scooters in such a manner as to block the pedestrian clear zone area of the sidewalk; any fire hydrant, call box, or other emergency facility; bus bench; or utility pole or box.
- c. Users shall not park Electric Bikes or Stand-up Electric Scooters in such a manner as to impede or interfere with the reasonable use of any commercial window display or access to or from any building.
- d. Users shall not park Electric Bikes or Stand-up Electric Scooters in such a manner as to impede or interfere with the reasonable use of any bicycle rack or news rack.
- e. Users may park Electric Bikes or Stand-up Electric Scooters in on-street parking spaces in the following circumstances:
 - i. When marked parking spaces are officially designated stations for such devices in business districts;
 - ii. Where the furniture zone is less than three feet wide;
 - iii. Where there is no furniture zone;
 - iv. In neighborhoods with rolled curbs, or with inadequate sidewalk space;
 - v. In marked parking spaces designated for motorcycles.
- f. Users may park Electric Bikes and Stand-up Electric Scooters on blocks without sidewalks only if the travel lane(s) and 6-foot pedestrian clear zone are not impeded.
- g. Users shall not park Electric Bikes or Stand-up Electric Scooters in the landscape/furniture zone directly adjacent to or within the following areas, such that access is impeded:
 - i. Transit zones, including bus stops, shelters, passenger waiting areas and bus layover and staging zones, except at existing bicycle racks;
 - ii. Loading zones;
 - iii. Disabled parking zone;

- iv. Street furniture that requires pedestrian access (e.g., benches, parking pay stations, bus shelters, transit information signs, etc.);
- v. Curb ramps;
- vi. Entryways; and
- vii. Driveways.
- h. Users of Electric Bikes or Stand-up Electric Scooters who violate these provisions may be fined by City consistent with fines for cyclists.
- i. Company may stage its Electric Bikes and Stand-up Electric Scooters in permitted parking areas as described in this section. To the extent Company desires to stage Electric Bikes and/or Stand-up Electric Scooters in areas other than the public right-of-way, Company must first obtain the right to do so from the appropriate City department, property owner, or public agency.

5. Operations

- a. Company shall maintain 24-hour customer service for customers to report safety concerns, complaints, or to ask questions. Company shall maintain a multilingual website, call center, and/or mobile app customer interface that is available twenty-four hours a day, seven days a week. The aforementioned shall be compliant with the Americans with Disabilities Act.
- b. In the event a safety or maintenance issue is reported for a specific device, that Electric Bike or Stand-up electric scooter shall be made unavailable to users and shall be removed within the timeframes provided herein. Any inoperable or unsafe device shall be repaired before it is put back into service.
- c. Company shall respond to reports of incorrectly parked Electric Bikes / Stand-up Electric Scooters, Electric Bikes / Stand-up Electric Scooters continuously parked in one location for more than 72 hours, or unsafe/inoperable Electric Bikes / Stand-up Electric Scooters, by relocating, re-parking, or removing the Electric Bikes / Stand-up Electric Scooters, as appropriate, within 24 hours of receiving notice that must include the location of the Electric Bike / Stand-up Electric Scooter.
- d. Company shall provide notice to all users that:
 - i. Electric Bikes / Stand-up Electric Scooters are to be ridden on streets, and where available, in bike lanes and bike paths;
 - ii. Electric Bikes / Stand-up Electric Scooters are to stay to the right of street lanes and to offer the right of way to bicycles on bike lanes and bike paths;
 - iii. Helmets are encouraged for all users;
 - iv. Parking must be done in the designated areas; and
 - v. Riding responsibly is encouraged.
- e. Electric Bike / Stand-up Electric Scooter riders are required to take a photo whenever they park their scooter at the end of a ride.
- f. Company shall provide education to Electric Bike / Stand-up Electric Scooter riders on the City's existing rules and regulations, safe and courteous riding, and proper parking.

6. Data Sharing

City may require Company to provide anonymized fleet and ride activity data for all trips starting or ending within the jurisdiction of City on any vehicle of Company or of any person or company controlled by, controlling, or under common control with Company, provided that, to ensure individual privacy:

- a. such data is provided via an application programming interface, subject to Company's license agreement for such interface, in compliance with a national data format specification such as the Mobility Data Specification;
- b. any such data provided shall be treated as trade secret and proprietary business information, shall not be shared to third parties without Company's consent, and shall not be treated as owned by the local authority; and
- c. such data shall be considered personally identifiable information, and shall under no circumstances be disclosed pursuant to public records requests received by the local authority without prior aggregation or obfuscation to protect individual privacy.

7. Indemnification

Company agrees to indemnify, defend and hold harmless City (and City's employees, agents and affiliates) from and against all actions, damages or claims brought against City arising out of Company's negligence or willful misconduct, except that Company's indemnification obligation shall not extend to claims of City's (or City's employees', agents' or affiliates') negligence or willful misconduct. City expressly acknowledges that in no event shall Company be liable for any special, indirect, consequential or punitive damages. Company's indemnification obligations shall survive for a period of one (1) year after expiration of this Agreement. Company shall be released from its indemnification obligations under this section if the loss or damage was caused by the City's negligent construction or maintenance of public infrastructure. City's right to indemnification shall be contingent on City notifying Company promptly following receipt or notice of any claim; Company shall have sole control of any defense; City shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Company.

8. Insurance

Company shall provide City with proof of insurance coverage exclusively for the operation of Stand-up electric scooters including: (a) Commercial General Liability insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than \$1,000,000.00 each occurrence and \$1,000,000.00 aggregate; (c) Umbrella or Excess Liability coverage with a limit of no less than \$5,000,000.00 each occurrence/aggregate; and (d) where Company employs persons within the City, Workers' Compensation coverage of no less than the statutory requirement.

9. Miscellaneous

- a. All notices and communications to the City from Company shall be made in writing (includes electronic communications) and sent to the address below.
- b. In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.
- c. This agreement shall be governed by and construed in accordance with the laws of the State of [State].

City, State

Bird Rides, Inc.

Signed By:

Signature: _____

Print Name: _____

Title: _____

Signature: _____

Print Name: _____

Title: _____

Address:

**ORDINANCE ESTABLISHING REGULATIONS FOR MOTORIZED SCOOTERS
AND ELECTRIC ASSISTED BICYCLES AND THE OPERATION
OF SHARED ACTIVE TRANSPORTATION SYSTEMS
IN THE TOWN OF BOILING SPRINGS**

WHEREAS, the Town Council desires to establish regulations to allow the use of portions of the right-of-way and Town real property by motorized scooters and by privately owned shared active transportation systems; to maintain the rights-of-way clear of unnecessary obstructions; and to protect the health, safety, and welfare of the citizens of Boiling Springs;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BOILING SPRINGS THAT:

SHARED ACTIVE TRANSPORTATION SYSTEMS

Sec. 21-1. - Adoption of definitions in general statutes.

The definitions of the following words set out in G.S. 20-4.01, as amended from time to time, are adopted as part of this article: electric assisted bicycle and vehicle.

Sec. 21-2. - Definitions.

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

Bicycle means a non-motorized vehicle with two or three wheels in tandem, a steering handle, one or two saddle seats, and pedals by which the vehicle is propelled.

Customer means a person that rents or operates a shared device from a shared active transportation system permittee.

Device operating area means the right-of-way (for all shared devices) and greenway trails (for bicycles only) where operation of a shared device is authorized by a permit.

Department means the Town's planning department.

Director means the director of the Town's planning department or her/his designee.

Electric assisted bicycle means a bicycle with two or three wheels that is equipped with a seat or saddle for use by the rider, fully operable pedals for human propulsion, and an electric motor of no more than 750 watts, whose maximum speed on a level surface when powered solely by such a motor is no greater than 20 miles per hour.

Greenway trail means a pathway designated by signage as a public trail for bicycles and pedestrians and not for motorized vehicular use by the general public. A greenway trail is not located within the right-of-way of a street.

Motorized scooter means a vehicle that is steered by a steering handle, designed to be stood upon by the operator while the vehicle is in operation, and powered by a motor capable of propelling the vehicle at a speed no greater than 18 miles per hour on a level surface; and whose wheels have diameters of ten inches or less.

Operate means, when used in direct reference to a shared device, to use the shared device for transportation. Operate includes to park a shared device.

Permit means a permit issued by the department pursuant to this article for a permittee to conduct a shared active transportation system.

Permittee is any person that conducts a shared active transportation system.

Rebalance means to move shared devices from one location. to another, generally for the purpose of avoiding having too many devices in one location.

Right-of-way means the area owned or maintained by the Town of Boiling Springs, State of North Carolina, a public utility, a railroad, or a private concern for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities, or railroads. Right-of-way includes the following, if they satisfy the foregoing definition: public street, highway, bridge, alley, bike lane, sidewalk, trail, median, gutter, or shoulder.

Shared active transportation system (SATS) means a business that provides one or more shared devices for rentals where, by design of the permittee, the shared devices are intended to be parked in a device operating area, but not connected to a dedicated docking station, when not rented by a customer.

Shared device means bicycle, electric assisted bicycle, or motorized scooter rented by a permittee to customers through a SATS.

Sec. 21-3. - Authorization.

Unlawful to operate SATS without authorization. It is unlawful for any person to conduct a shared active transportation system within the Town except pursuant to this article.

Sec. 21-4. - Permits required; issuance; nature of permits.

- (a) No person may conduct a SATS in the Town who does not hold a valid permit. A permit will be issued if the department finds that the application meets the requirements of this article for issuance of the permit, including payment of applicable fees, which shall be set from time to time by Town council. Permits will be effective for a period of one year and are renewable subject to the same standards of review as for the initial permit. The **director** is authorized to write terms and conditions in permits as appropriate to effectuate this article, including limiting the shared device fleet size of a permittee to improve permit compliance.
- (b) A permit does not grant exclusive rights to operate a shared active transportation system in device operating areas.
- (c) Each permittee shall comply with its permit.

Sec. 21-5. - Equipment and shared devices requirements.

- (a) When used in a shared active transportation system, bicycles and electric assisted bicycles shall meet the standards in (i) the Code of Federal Regulations (CFR) under Title 16, Chapter II, Subchapter C, Part 1512 - Requirements for Bicycles, as amended; and (ii) the standards in ISO 43.150 - Cycles, subsection 4210, as amended.
- (b) All shared devices shall comply with the applicable equipment and vehicle registration requirements of N.C.G.S. Ch. 20.

- (c) Permittees shall provide, on every shared device, contact information of the permittee including the website and phone number.
- (d) All shared devices must be equipped with technology, such as GPS, that allows the shared device to be located and tracked by the permittee at all times.
- (e) Permittees shall see that every shared device prominently displays a unique and easily read serial number or other identifier.

Sec. 21-6. - Operation of SATS.

- (a) A permit is valid for conducting a SATS within device operating areas only, and with the consent of the owner or lawful occupant on other real property. It is unlawful to operate a shared device on any real property outside device operating areas without consent of the property's owner or lawful occupant. Each permittee shall have at all times the ability to discover when its shared devices are operated outside device operating areas and to communicate electronically that information to customers who have operated a shared device outside device operating areas. Permittees shall communicate to customers at the end of a trip when the shared device has been operated outside device operating areas.
- (b) Permittees shall not restrict the operation of shared devices to only certain geographical areas of the Town unless approved by the Town.
- (c) Permittees shall not discriminate against low and moderate income persons in connection with permitted activities and conducting its SATS in the Town. Permittees must deploy and maintain a sufficient number of shared devices to satisfy customer demand within census tracts of low and moderate income areas of the Town as defined in the permit.
- (d) Each permittee shall implement programs to reduce barriers to low-income persons to rent its shared devices by providing diverse payment options, including options for persons with neither a smart phone nor a credit card to rent its shared device. These options shall be made accessible to low-income persons at multiple locations within the permittee's area of operation.
- (e) The **director** is authorized to limit the total number of shared devices, including the mix of shared devices, within device operating areas in order to (1) maintain the integrity of the Town's entire transportation system; (2) keep rights-of-way free and clear of unnecessary obstructions; and (3) protect the health, safety, and welfare of the citizens of the Town.

Sec. 21-7. - Permittee communication with customers.

- (a) Permittees shall include substantially the following information for prospective customers on the permittee's mobile app and web site, and also displayed on the shared device for which the information is applicable:
 - (1) Persons operating bicycles and electric assisted bicycles are encouraged to wear helmets.
 - (2) Persons operating motorized scooters must be at least 16 years old and wear a helmet.
 - (3) NC law requires persons operating the device to follow applicable traffic laws.
 - (4) **Town ordinance prohibits operating the device on sidewalks.**

(5) Operating electric assisted bicycles and motorized scooters is prohibited on greenway trails.

- (b) Permittees shall adopt and implement programs to educate customers on how to safely operate shared devices, including knowledge of laws applicable to operating a shared device in the Town.
- (c) Permittees shall communicate to prospective customers sufficient information on charges that may be made, including rates and dollar amounts of fees, including rental charges, minimum charges, maximum charges, charges for additional time, and charges for overage periods. If charges may be based on time or distance, information on the rate per minute, hour, mile, or other applicable time period or distance shall also be provided.
- (d) Permittees shall have a 24-hour phone number for customers to report safety concerns and complaints, and to ask questions.
- (e) All communications required by this article to be made by a permittee to prospective customers and customers shall be in clear, plain English and displayed in a sufficiently prominent way that the communication is obvious.

Sec. 21-8. - Insurance, indemnification, security, and liability.

- (a) At all times when conducting a SATS, a permittee shall maintain insurance in effect and provide proof of such insurance, both as required by the department.
- (b) Every permittee shall defend and indemnify the Town from and against all claims and liabilities that arise from the acts and omissions of the permittee and its customers in device operating areas, to the extent the acts and omissions relate to the operation of shared devices.
- (c) Permittees shall provide the Town with a performance bond, or other security acceptable to the **director**, in an amount determined by the **director** to be sufficient to cover the obligations of the permittee under the permit. The form of the bond is subject to approval by the **department** after it consults the Town attorney, and shall be executed by one or more surety companies legally authorized to do business in the State of North Carolina. The bond shall guarantee the performance of all the obligations of the permittee under its permit. If the amount of the bond is set according to the number of deployed shared devices, when a permittee intends to increase the number of deployed devices, the permittee shall submit a revised performance bond, or other security acceptable to the **director**, before the additional shared devices may be deployed.
- (d) Each permittee shall be responsible for the costs of repair to public property damaged by its customers' use of its shared devices.

Sec. 21-9. - Parking, placement, rebalancing, and removing of shared devices.

- (a) Shared devices shall not be parked in a way that may impede the regular flow of vehicular and pedestrian travel in device operating areas or otherwise cause a violation of the Town Code, including this article. Permittees shall inform customers how and where to park a shared device in the manner required by this article. Shared devices shall be upright when parked. The permittee shall remove or re-park every one of its shared devices that is parked in violation of the permit or the Town Code in accordance with the following:

- (1) During the time period of 6:00 a.m. to 6:00 p.m. on weekdays, not including legal holidays, the permittee shall remove or re-park within two hours of receiving notice from any person via mobile or other web application or phone number.
- (2) During all other times, the permittee shall remove or re-park within 12 hours of receiving notice from any person via mobile or other web application or phone number.
- (b) At any time the Town may make it unlawful to park shared devices in specific locations or portions of device operating areas or public property by action of the Town council.
- (c) Permittees shall remove every bicycle and electric assisted bicycle before it is parked in the same location for more than seven consecutive days.
- (d) Permittees shall remove every motorized scooter before it is parked in the same location for more than 72 consecutive hours.
- (e) Permittees shall not deploy a shared device that is inoperable or unsafe to operate. Permittees shall remove from device operating areas within 24 hours of notice any inoperable shared device or any shared device that is not safe to operate.
- (f) Each permittee shall remove and secure its entire fleet of shared devices from device operating areas for all time periods for which the National Weather Service or its successor agency forecasts (i) sustained winds of 40 mph or higher for one hour or more, or (ii) wind gusts of 58 mph or higher for any duration in the Town.
- (g) Each permittee shall compensate the Town for the costs incurred by the Town in removing and storing its shared devices that have been improperly parked or rebalanced, including under the circumstances where a permittee fails to remove its shared devices in violation of its permit or in case its permit is terminated or otherwise not in effect.
- (h) Permittees shall provide the department with contact information so that it can order rebalancing. The Town has the right to determine specific locations for rebalancing shared devices, as well as times when the shared devices must be removed from device operating areas.
- (i) If the Town relocates or removes a permittee's shared devices because of a violation of a permit or this article, the permittee shall pay a fee in an amount set from time to time by Town council.

Sec. 21-10. - Reporting.

- (a) Each permittee shall provide the Town, or to such other persons that the Town may specify, with data regarding customers and shared device trips, in the format and timeline specified by the **director**. The data shall include real-time availability data for all devices, archival trip data for all devices including the frequency and location of shared device trips during the permit period, including identification of the shared device by type. This data will be used to support safe, equitable, and effective management of the shared active transportation system throughout the Town. The permittee shall communicate to prospective customers that this data will be collected and shared with the Town.
- (b) Each permittee shall compile, for all of its shared devices deployed in the Town, records of collisions or accidents reported to the permittee, the police, or the NC Department of Motor

Vehicles, and records of maintenance and repair. Records shall be shared with the Town when and in the manner required by the permit.

Sec. 21-11. - Revocation or non-renewal of permit; review of decisions.

(a) *Revocation or non-renewal; grounds and procedure for revocation or non-renewal.* The **director** may, (i) at any time, revoke any permit issued to a permittee or (ii) refuse to renew a permit issued to a permittee under this article and require that permittee remove its entire fleet of shared devices from Town designated areas, if the **director** finds:

- (1) Fraud, misrepresentation, or a knowingly false statement with respect to a material fact in the permit application or permit renewal application;
- (2) The permittee or the permittee's agent or employee violated this article or the terms of the permit; or
- (3) The permittee's customers operate the shared devices in such a manner as to create unsafe traffic conditions, cause a breach of the peace or public nuisance, violate any applicable law, or interfere with the rights of property owners abutting the right-of-way, and such operation is done to such an extent that the health, safety, and welfare of the citizens or their property is at substantial risk if the permit is allowed to continue in effect;

Except in case of emergency or impracticality, before revoking the permit or denying renewal of a permit, the **director** shall give reasonable notice to the permittee and an opportunity to be heard. A permit may be revoked or permit renewal denied pursuant to this section even if the person making the findings pursuant to this section had made a contrary finding before the permit was issued or renewed, regardless of whether the facts upon which the finding is made had changed.

(b) *Notice.*

- (i) The **director** shall cause a written notice of the revocation or denial of renewal to be served on the permittee by first-class mail, email or other electronic means, or fax, to the address or number shown on the permit application, or by any method allowed by law for service of a summons in a civil action. The person serving the notice may be any person who is 18 years or older, including the **director**.
 - (ii) If the **director** finds that time before a proposed hearing is insufficient to allow service in accordance with subsection (i), the **director** may, as an alternative to the means listed in subsection (i), notify the permittee by telephone of the grounds for revocation or denial of renewal and of the right to appeal, provided a written notice is also sent in accordance with subsection (i) on or before the next day that is not a holiday.
 - (iii) The notice described in subsection (i) shall set forth a brief statement of the grounds for revocation or denial of renewal and of the right to appeal.
 - (iv) The **director** shall see that a written record is made to show: compliance with this section (b).
- (c) *Retention of fees; waiting period.* If the Town revokes a permit, the Town shall retain the fee, if any, paid for the permit. In the case of a denial of a permit renewal, the Town shall either not accept the renewal fee or return the renewal fee to the permittee. The person whose permit is revoked or renewal denied for grounds stated in subsection (a)(1), (a)(2), or (a)(3), regardless of whether additional grounds existed, shall not be issued a permit under the same

section of this article for the remainder of the time for which the revoked permit had been issued or, in the case of a denial of a permit renewal, for the term of the renewal period. The **director** shall use reasonable judgment in deciding whether two applicants are the same so that, for example, technical changes in the applicant, or where the applicant one year is a corporation and the next year it is an affiliate or subsidiary of the same corporation, may be disregarded.

- (d) *Review of decisions.* If the **director** denies the issuance of a permit, revokes a permit, denies renewal of a permit, issues a permit with terms deemed unacceptable to the permittee, or makes any other decision pursuant to this article with respect to a permit, the applicant or permittee may have that decision reviewed by filing a written request in the office of the **director** within ten days of the date of the notice of decision. The **director** or a person designated by the Town manager for this purpose who is neither the person who made the decision complained of nor that person's subordinate, shall be named as the hearing officer to conduct a hearing in order to review the decision. The **director** shall cause a written notice of the time and place of the hearing to be given or sent to the person seeking review. The failure of the hearing officer to set a hearing within 30 days of the filing of the written request for review, or to deliver a decision within 15 days after the hearing, or within any shortened periods set by the **director**, shall be deemed a denial of the relief sought and affirmance of the action for which review was sought. The permittee and the **director** may appear in person or through counsel and may present evidence, provided, however, that the hearing officer shall have the authority to conduct the hearing in the manner and for the period of time that he or she deems appropriate to make a decision. The hearing officer may affirm, deny, or modify the decision complained of, and the hearing officer's decision shall be final. Failure to request a review within the time and in the manner provided for in this subsection shall constitute a waiver of the right of review. The permit may be used during the review process only if the **director** determines that its use would not constitute a substantial threat that the grounds described in subsection (a)(2) or (a)(3) will occur, re-occur, or continue during the review process.
- (e) *Certiorari.* A decision by the hearing officer is subject to review by the Gaston County Superior Court by proceedings in the nature of certiorari. The petition for review shall be filed with the clerk of Superior Court within the earlier of 30 days after the denial and affirmance are deemed to occur pursuant to subsection (d), or within 30 days after the decision is delivered to the applicant. Delivery is made by hand-delivery of the decision to the applicant, or by first-class or certified mail to the address provided on the application. Delivery by mail is complete when placed in the custody of the U.S. Postal Service.

Sec. 21-12. - Penalties for violations.

- (a) *Assessment of civil penalties.* The **director** shall assess civil penalties for violation of this article, including the terms of a permit. The **director** shall give the offender written notice of the nature of the violation and the amount of the civil penalty. The notice shall be served by any method allowed by law for service of a summons in a civil action, provided that the person delivering the notice may be any person who is 18 years or older, including the **director**. The civil penalty shall be \$200.00 per violation plus the costs incurred by the Town resulting from the violation, including costs of removing shared devices from the right-of-way.

- (b) *Review of assessment of civil penalties.* Any person who has been assessed a civil penalty under this article may have that assessment reviewed by filing a written request in the office of the **director** within ten days of the date of service of the notice of the civil penalty. A person designated by the Town manager for this purpose who is neither the person who assessed the civil penalty nor that person's subordinate shall be named as the hearing officer to conduct a hearing in order to review the assessment. The **director** shall cause a written notice of the time and place of the hearing to be given or sent to the person seeking review. The person assessed the penalty and the **director** may appear in person or through counsel and may present evidence, provided, however, that the hearing officer shall have the authority to conduct the hearing in the manner and for the period of time that he or she deems appropriate to make a decision. The hearing officer may affirm, deny, or modify the decision complained of, and the hearing officer's decision shall be final. Failure to request review within the time and in the manner provided for in this subsection constitutes a waiver of the right of review.
- (c) *Collection of civil penalties.* If the offender does not pay the civil penalty within ten days after having been served with the notice of the civil penalty, the **director** may collect the civil penalties by causing to be commenced civil actions in the nature of debt. The **director** may compromise such claims, before or after commencement of the civil action, if the **director** finds there is a reasonable probability that the Town will be unable to collect the entire amount of the claim, that the amount offered in compromise of the claim reasonably reflects either the amount of money available from the offender or the amount the Town is likely to recover in the civil action, taking into account the resources required to pursue the civil action, and that the facts and circumstances of the events giving rise to the claim, taken as a whole, indicate that the amount offered in compromise is fair and reasonable. Using the foregoing standards, in an appropriate case, the **director** may abandon a claim.
- (d) *Criminal remedies.* Except for provisions, if any, of this article that regulate the operation of shared devices, each violation of this article, including the terms of a permit, is a misdemeanor punishable by a maximum fine of \$500.00.
- (e) *Available remedies.* This article and the provisions of permits issued under this article may be enforced by an appropriate equitable remedy, including abatement orders and mandatory or prohibitory injunctions, issuing from a court of competent jurisdiction. The general court of justice shall have jurisdiction to issue such orders as may be appropriate, and it shall not be a defense to the application of the Town for equitable relief that there is an adequate remedy at law. In applying this section, the Town council intends that revocation of a permit be deemed to be a remedy among other authorized remedies.

Section 3. All ordinances or portions of ordinances in conflict herewith are hereby repealed.

Section 4. Should any provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of the ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 5. This ordinance shall take effect and be in force from and after the date of its adoption.



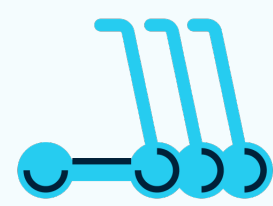
Hey Gastonia!

A Year in Bird (so far):



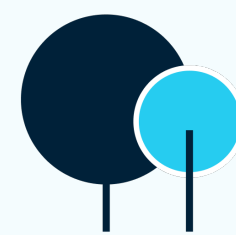
JANUARY 2021

Birds Landed



50

Number of Birds



5.77

Metric Tonnes of CO2 saved



11,776

Total Rides

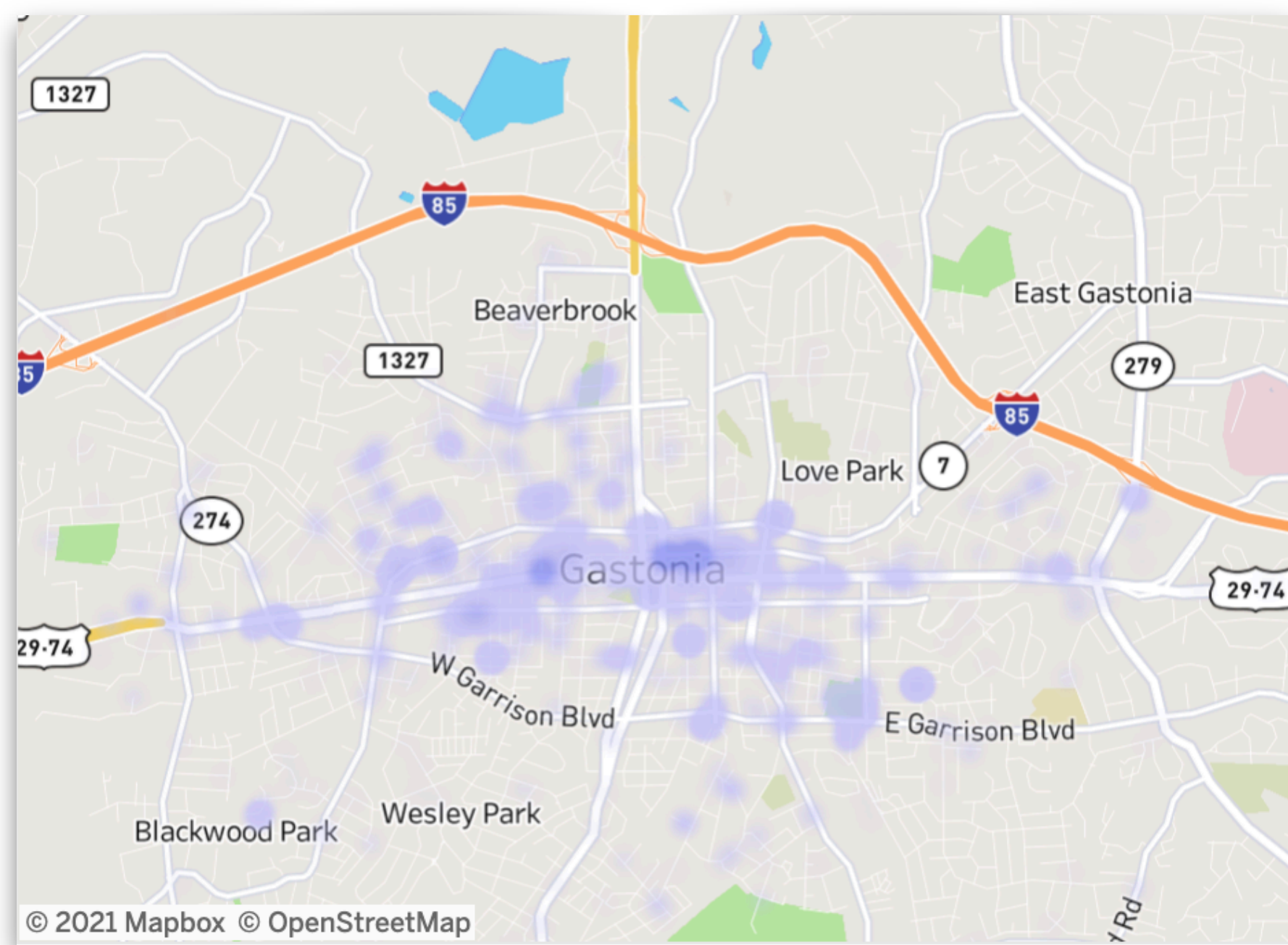


27,131

Total Miles Traveled

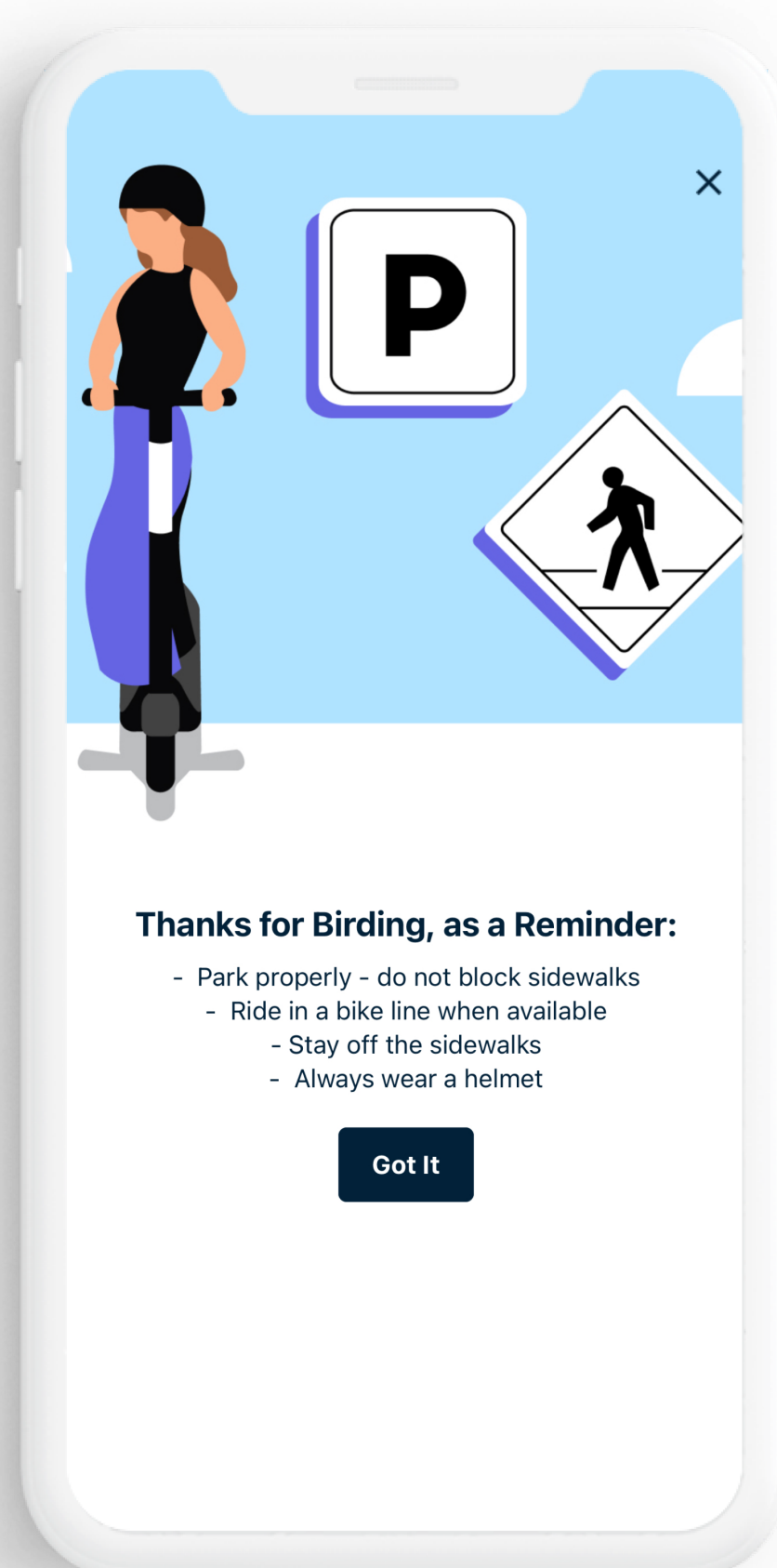
1

Bird takes you where you want to go. Here's where the Bird community is riding Birds to!



2

This year, we reminded Gastonia riders to...



- Wear a helmet
- Stay off the sidewalk - use a bike lane when available
- Park properly - do not block sidewalks, ADA ramps, or entrances.



SOLICITOR ORDINANCE

Staff requests feedback on the solicitor ordinance

SUMMARY

A request was made at the October Town Council meeting to review the solicitor ordinance. Council did not have an opportunity to discuss this as a group, so staff has done some preliminary research and requests feedback on how to proceed (keep it the same or recommend a revision to the ordinance).

Other cities have broad prohibitions on solicitation, with exceptions built-in for non-profit organizations (churches, scouts, booster clubs, etc.). Others only ban solicitation in certain cases. Currently, Boiling Springs [ordinance](#) allows almost any group to 'go door-to-door,' but we require a permit to do so. Longer excerpts are included in the following pages, but a summary of each is provided below.

Shelby

This [ordinance](#) makes it unlawful to beg or solicit alms or contributions. Very general prohibition. They distinguish between two types of charitable solicitors (religious and non-religious), solicitors in general, and itinerant merchants. Charitable solicitors must receive a permit from the city (Sec. 34-92). This is a lengthy ordinance with a lot of regulations.

Gastonia ([full ordinance here](#))

A permit is required to solicit under Sec. 8-291. Some organizations are exempt under Sec. 8-262 because they solicit for federal, state, or local governments; receive less than \$10,000 in contributions in a calendar year and do not provide compensation to solicitors; are an accredited educational institution or hospital licensed by law; are noncommercial radio or television stations. 8-297 forbids transferring the permit to another solicitor unless that solicitor is part of the organization and is named during the permitting process. It also requires that a copy of the permit be in the possession of solicitors while conducting their work. 8-298 forbids advertising that the permit is an endorsement by the town.

Asheville ([full ordinance here](#))

Unlike the two above, there is no general prohibition against soliciting or a requirement to get a permit. Instead, Asheville provides specific situations (Sec. 11-5) where solicitation and begging are prohibited. It seems to allow solicitation outside of these prohibited instances. Prohibited actions include language about not accosting another, being within a certain distance of a financial institution or ATM, not blocking someone's path or touching them, and a few others.

MATERIALS PROVIDED

- **Current Boiling Springs ordinance**
- **Ordinance excerpts from Shelby, Gastonia, Asheville**

CHAPTER 114. PEDDLERS AND SOLICITORS

Sec. 114.01. Definitions.

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

Business means the business carried on by any person who is an itinerant merchant, peddler, or solicitor as defined in this section.

Goods means merchandise of any description whatsoever, and includes but is not restricted to wares and foodstuffs.

Itinerant merchant means any person, whether as owner, agent, or consignee, who engages in a temporary business of selling goods within the city and who, in the furtherance of such business, uses any building, structure, vehicle, or any place within the city.

Peddler.

- (1) Any person who travels from place to place by any means carrying goods for sale, making sales, making deliveries; or
- (2) Any person who, without traveling from place to place, sells or offers goods for sale from any public place within the city.
- (3) A person who is a peddler is not an itinerant merchant.

Solicitor means any person who travels by any means from place to place, taking or attempting to take orders for sale of goods to be delivered in the future or for services to be performed in the future. A person who is a solicitor is not a peddler.

Push cart means any rubber-wheeled vehicle or portable cart. The design and appearance is subject to review and approval by the town manager or his or her designee. Push carts shall be used for displaying, keeping or storing any article by a vendor or peddler (other than a motor vehicle, bicycle, or trailer) which may be moved without the assistance of a motor and which does not require registration by the state department of motor vehicles, and from which prepared food, fruit, merchandise, drink, and flowers may be sold.

Mobile food unit means any vehicle, other than a pushcart, from which is vended prepared food, drink, and fresh fruit.

Vendor means any person who operates a push cart or mobile food unit.

Special event means an event, during which one or more streets may be closed to vehicular traffic within the event area, if applicable.

Sec. 114.02. License requirement.

- (a) Any person who is an itinerant merchant, peddler, solicitor, or vendor shall obtain a license before engaging in such activity within the city.
- (b) The fee for the license required by this chapter shall be as follows:
 - (1) \$5.00 per peddler per license.
 - (2) \$25.00 per pushcart or mobile food unit per license.

- (c) No license issued under this chapter shall be transferable.
- (d) All licenses issued under this chapter shall expire 90 days after the date of issuance thereof.
- (e) Penalty, see § 114.99.

Sec. 114.03. Application procedure.

- (a) All applicants for licenses required by this chapter shall file an application with the town clerk.

This application shall be signed by the applicant if an individual, or by all partners if a partnership, or by the president/member manager if a corporation. The applicant may be requested to provide information concerning the following items:

- (1) The name and address of the applicant;
- (2) a. The name of the individual having management authority or supervision of the applicant's business during the time that it is proposed to be carried on in the city;
 - b. The local address of such individual;
 - c. The permanent address of such individual;
 - d. The capacity in which such individual will act;
- (3) The name and address of the person, if any, for whose purpose the business will be carried on, and, if a corporation, the state of incorporation;
- (4) The time period or periods during which it is proposed to carry on applicant's business;
- (5) a. The nature, character, and quality of the goods or services to be offered for sale or delivered;
 - b. If goods, their invoice value and whether they are to be sold by sample as well as from stock;
 - c. If goods, where and by whom such goods are manufactured or grown, and where such goods are at the time of application;
- (6) The nature of the advertising proposed to be done for the business;
- (7) Whether or not the applicant, or the individual identified in division (a)(2)a above, or the person identified in division (a)(3) has been convicted of any crime or misdemeanor and, if so, the nature of each offense and the penalty assessed for each offense.
- (8) For food vendors:
 - a. A description of the proposed location of the vending business and notarized permission from the business owner or manager of the location.
 - b. a description, including the size, and a photograph of any pushcart or motor vehicle to be used in the operation of the business, including the license and registration number of any motor vehicle used in the operation of the business.
 - c. A copy of any approval required by the county health department.
 - d. Proof of insurance policy, issued by an insurance company to do business in the state, protecting the permittee and the town from all claims for damages to property and bodily injury, including death, which may arise from operations under or in connection with the permit. Such insurance shall name the town as additional insured and shall provide that the policy shall not terminate or be canceled prior to the expiration date without 30 days' advance written notice to the town. Such insurance shall afford minimum limits of \$100,000.00 per bodily injury, \$300,000.00 per occurrence bodily injury, and \$25,000.00 per occurrence property damage.

Sec. 114.031. Vending of food from pushcarts and mobile food units.

- (A) Vending of food and drink from licensed food units is permitted in areas zoned B-1 with the following exceptions:
- (1) No foot peddler or vendor selling from a pushcart shall:
 - a. Vend on any sidewalk.
 - b. Vend within ten feet of an entranceway to any building.
 - c. Vend within 50 feet of any driveway entrance to a police or fire station, or within ten feet of any other driveway or alley.
 - d. Vend within ten feet of the crosswalk at any intersection.
 - e. Vend within ten feet of any fire hydrant.
 - f. Allow the pushcart or any other item relating to the operation of the vending business to lean against or hang from any building or other structure lawfully placed on public property, without the owner's permission.
 - g. Vend within 50 feet of another foot peddler or pushcart with exception during special events.
 - h. Impede, endanger, or interfere with travel upon or use of the street or sidewalk. If it becomes necessary for the regulation of traffic or the safety or convenience of pedestrians, any law enforcement officer of the town may direct vendors to temporarily move to another location.
 - (2) No vendor selling from a mobile food unit shall:
 - a. Conduct business in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, or create or become a public nuisance, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access for fire, police, or sanitation vehicles.
 - b. Park the mobile unit upon any street with exception during special events.
 - c. Remain in any one location more than three hours between the normal business hours of 8:00 a.m. to 5:00 p.m. with exception to special events.
 - d. Operate after 10:00 p.m. when located within 150 feet of a single or two-family residential dwelling. This measurement is taken from the property line of the residential dwelling in a straight line to the closest point of the approved food truck location.
- (b) Requirements for pushcarts.
- (1) No pushcart shall exceed 36 inches in width or 72 inches in length. No pushcart shall exceed 60 inches in height.
 - (2) Any covering for a pushcart shall be limited to a single mast umbrella, attached to the pushcart. The umbrella shall be at least 78 inches in height at its lowest point and shall not exceed eight feet in diameter when fully opened. Tent-like structures or canopies supported by multiple posts are specifically prohibited.
- (c) All mobile food units in or from which food is prepared or sold shall comply with all requirements of the Cleveland County Health Department and Cleveland County Environmental Health.

Sec. 114.04. Standards for issuance.

- (a) Upon receipt of an application, an investigation of the applicant's business reputation and moral character shall be made.
- (b) The application shall be approved unless such investigation discloses tangible evidence that the conduct of the applicant's business would pose a substantial threat to the public health, safety, morals, or general welfare. In particular, tangible evidence the applicant has done any of the following will constitute valid reasons for disapproval of an application:
 - (1) Been convicted of a crime of moral turpitude; or
 - (2) Made willful misstatements in the application; or
 - (3) Committed prior violations of ordinances pertaining to itinerant merchants, peddlers, solicitors, and the like; or
 - (4) Committed prior fraudulent acts; or
 - (5) Compiled a record of continual breaches of solicited contracts; or
 - (6) Attained an unsatisfactory moral character.

Sec. 114.05. Revocation procedure.

Any license or permit granted under this chapter may be revoked by the town clerk after notice and hearing, pursuant to the standards in section 114.06. Notice of hearing for revocation shall be given in writing, setting forth specifically the grounds of the complaint and the time and place of the hearing. Such notice shall be mailed to the licensee at his last known address, at least ten days prior to the date set for the hearing.

Sec. 114.06. Standards for revocation.

- (a) A license granted under this chapter may be revoked for any of the following reasons:
 - (1) Any fraud or misrepresentation contained in the license application; or
 - (2) Any fraud, misrepresentation, or false statement made in connection with the business being conducted under the license; or
 - (3) Any violation of this chapter; or
 - (4) Conviction of the licensee of any felony, or conviction of the licensee of any misdemeanor involving moral turpitude; or
 - (5) Conducting the business licensed in an unlawful manner or in such a way as to constitute a menace to the health, safety, morals, or general welfare of the public.

Sec. 114.07. Appeal procedure.

- (a) Any person aggrieved by a decision under sections 114.04 or 114.06 shall have the right to appeal to the town council. The appeal shall be taken by filing with the town council, within 14 days after notice of the decision has been mailed to such person's last known address, a written statement setting forth the grounds for appeal. The town council shall set the time and place for a hearing, and notice for such hearing shall be given to such person in the same manner as provided in sections 114.05.
- (b) The order of the town council after the hearing shall be final.

Sec. 114.08. Exhibition of identification.

- (a) Any license issued to an itinerant merchant under this chapter shall be posted conspicuously in or at the place named therein. In the event more than one place within the city shall be used to conduct the business licensed, separate licenses shall be issued for each place.
- (b) The town clerk shall issue a license to each peddler or solicitor licensed under this chapter. The license shall contain the words licensed peddler or licensed solicitor, the expiration date of the license, and the number of the license. The license shall be kept with the licensee during such time as he is engaged in the business licensed.

Cross reference(s)—Penalty, see § 114.99.

Sec. 114.99. Penalty.

- (a) (1) Any violation of any provision of this chapter shall subject the violator to a civil penalty in the sum of \$50.00 per day.
 - a. A citation of said civil penalty shall be issued by the code enforcement officer.
 - b. Each citation for a civil penalty must be paid within 48 hours of issuance.
- (b) The municipality may also, and in addition, seek any and all appropriate equitable remedies, injunctions and/or abatement orders from the appropriate court of competent jurisdiction.

Shelby:**Sec. 34-2. - Unlawful begging, solicitation of alms or contributions.**

It shall be unlawful for any person to ask, beg or solicit alms or contributions, or to exhibit oneself for the purpose of begging or soliciting alms or contributions by accosting another or forcing oneself upon the company of another.

Sec. 34-3 – 34-30. – Reserved.

Article II – Itinerant Merchants – Omitted – Sec. 34-31 – Sec. 34-60

Article III – Charitable Solicitations

Division 1— Sec. 34-61—34-67 Omitted.

Secs. 34-68 – 34-90. Reserved

Division 2. – Permit**Sec. 34-91. - Required.**

- (a) No person shall solicit contributions for any charitable purpose within the city without a permit from the city manager authorizing such solicitation; however, the provisions of this section shall not apply to any established organization organized and operated wholly or partially for charitable purposes and not operated for the pecuniary profit of any person if the solicitations are conducted only among the members of such organization by other members or officers, voluntarily and without remuneration for making such solicitations, or if the solicitations are in the form of collections or contributions at the regular assemblies or services of such established organization.
- (b) When a permit has been issued to other than an individual, the individual agents and solicitors for the permit holder shall not be required to obtain individual permits.

Sec. 34-92 – 34-98. – Omitted

Sec. 34-99 – 34-130. – Reserved

Division 3. – Certificate for Religious Solicitations**Sec. 34-131. - Required.**

- (a) No person shall solicit contributions for any religious purpose within the city without a certificate from the city manager authorizing such solicitation. The provisions of this section shall not apply to any established organization organized and operated exclusively for religious purposes and not operated for the pecuniary benefit of any person if the solicitations by such established organization are conducted only among the members by other members or officers, voluntarily and without remuneration for making such solicitations, or the solicitations are in the form of collections or contributions at the regular assemblies or services of such established organization.

- (b) When such a certificate has been issued to other than an individual, the individual agents and solicitors for the certificate holder shall not be required to obtain individual certificates.

Sec. 34-132. - Application.

- (a) Application for a certificate required by this division shall be made to the city manager upon forms prescribed by him. Such application shall be sworn to or affirmed, and shall contain the following information, or in lieu thereof, a statement satisfactory to the city manager of the reason or reasons why such information or any item of information is not furnished:
- (1) A financial statement for the last preceding fiscal year of any funds collected for religious purposes by the applicant, such statement giving the amount of money so raised, together with the cost of raising it, and its final distribution.
 - (2) A full statement of the general character and extent of the religious work being done or to be done by the applicant, and also the character and extent of such work being done or to be done within the city.
 - (3) A statement to the effect that if a certificate is granted it will not be used or represented in any way as an endorsement by the city or by any department or officer of the city.
 - (4) A statement to the effect that if a certificate is granted no person under the age of 16 years will be permitted to solicit money.
 - (5) Such other information as may be submitted to the city manager in order for him to determine the kind and character of the proposed solicitation.
- (b) If while any application is pending or during the term of any certificate granted on application there is any change in fact, policy or method that would alter the information given in the application, the applicant shall notify the city manager in writing within 24 hours after such change.

Sec. 34-133. - Issuance; contents.

Upon receipt of an application for a certificate under this division, the city manager shall forthwith issue to the applicant a certificate of registration. Such certificate of registration shall bear the name and address of the person by whom the solicitation is to be made, the number of the certificate, the date issued, and a statement that the certificate does not constitute an endorsement by the city or by any of its departments or officers of the purpose of the solicitation or of the person conducting the solicitation.

Sec. 34-134. - Term; renewal.

A certificate issued under this division shall remain in force and effect for a period of one year after its issuance and shall be renewed upon the expiration of such period upon the filing of a request in writing, but the city manager may require a new application.

Gastonia:

Sec. 5-17. - Begging and solicitation, prohibited conduct.

- (a) It shall be unlawful for any person to ask, beg, solicit, or offer to work for money or any other thing having value by (i) accosting another, or (ii) forcing oneself upon the company of another.
- (b) For purposes of this section, "ask, beg, solicit, or offer to work for" shall include, without limitation, the spoken, written, or printed word or such other acts as are conducted in furtherance of the permitted activity.
- (c) For purposes of this section, "accosting" shall be defined as approaching or speaking to an individual or individuals in such manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession.
- (d) For purposes of this section, "forcing oneself upon the company of another" shall be defined as (i) continuing to request, beg, solicit, or offer to work in close proximity to the individual addressed after the person to whom the request is directed has made a negative response; or (ii) blocking the passage of the individual addressed whether such person be within or without a motor vehicle or upon any other conveyance; or (iii) otherwise engaging in conduct which could reasonably be construed as intended to compel or force a person to accede to such demands.
- (e) A violation of this section is punishable as a misdemeanor.

DIVISION 4. – SOLICITATION

Subdivision I. - General Provisions

Sec. 8-261. – Definitions – Omitted.

Sec. 8-262. - Exemptions from provisions of this division.

The following solicitations shall be exempt from the provisions of this division: solicitations for federal, state or local governments or any agency thereof; any solicitor who receives less than \$10,000.00 in contributions in any calendar year and does not provide compensation to those engaged in its solicitations; any accredited educational institution or hospital licensed by law, and any noncommercial radio or television station.

Sec. 8-263 – 8.290. – Reserved.

Subdivision II. - Solicitor's Permit

Sec. 8-291. - Permit required.

It shall be unlawful for any person not exempted by [section 8-262](#) to engage in solicitation within the corporate limits of the city, either directly or through an agent or employee, without first obtaining a permit to do so from the administrator.

Sec. 8-292. - Application; filing, data to be included.

- (a) An application for a permit required by this division shall be filed with the administrator at least ten working days prior to commencing solicitation.
- (b) The application shall be made in writing on a form furnished by the administrator, verified under oath or affirmation, and shall contain the following information:
 - (1) The name of the person or organization applying for a permit to solicit, and the address of its headquarters.
 - (2) The names and addresses of its principal officers or agents and all promoters connected or to be connected with the proposed solicitation.
 - (3) The purposes for which such solicitation is to be made and the use or disposition to be made of any receipts therefrom.
 - (4) The names, addresses and identification deemed sufficient by the administrator of all persons who will be conducting solicitations.
 - (5) An outline of the method to be used in conducting the solicitations.
 - (6) The days and hours when such solicitations shall be made, including the proposed dates for the beginning and ending of such solicitations.
 - (7) A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement by the city, the governing body of the city or any employee thereof.
 - (8) Such other information as may be reasonably required by the administrator for the public interest or for the protection of contributors.
- (c) At the time an application is submitted to the administrator, the applicant shall pay a nonrefundable fee of \$15.00 to defray the cost of processing the application. If a permit is issued, the applicant shall pay an additional fee of \$0.50 for each duplicate of the permit that is required pursuant to this article.

Sec. 8-293 – Sec. 8-296. – Omitted.

Sec. 8-297. - Transferability; duplicates of permits.

- (a) Any permit approved and issued under this division shall be nontransferable; provided, however, this shall not prevent any permittee from using any number of solicitors as shall be reported to the administrator in the application; provided further, the permittee shall be required to provide each such agent, employee or representative making solicitations with a duplicate of the permit, which shall be carried by such agents, employees or representatives at all times during which solicitations are being made.
- (b) For purposes of this division, a "duplicate" of the permit shall be defined as a photocopy of the permit which also has on its face an original or facsimile signature of the administrator and an original imprint of the city seal.

- (c) It shall be unlawful for a permittee or any agent, employee or representative of a permittee to solicit without having in his immediate possession a permit to solicit or a duplicate thereof, plus a valid form of identification, or to refuse to show such permit or duplicate and identification to a law enforcement officer when requested to do so by the officer.

Sec. 8-298. - Not to be represented as endorsement by city.

It shall be unlawful for any permittee, or for any agent, employee or representative thereof, to advertise, represent or hold out in any manner that the permit required by this article is an endorsement of the holder thereof by the governing body of the city, or any employee thereof, or by the city; provided, it shall be lawful for a permittee to use, advertise or hold out the fact of his permit in the following words and no others: "Solicitations Permit No. _____," including in the blank space the serial number of the permit.

Asheville:

Sec. 11-5. Public solicitation and begging regulated.

(a) Definitions.

Accosting: approaching or speaking to an individual or individuals in such a manner as would cause a reasonable person to fear imminent bodily harm or the commission of a criminal act upon his or her person, or upon property in his or her immediate possession.

Beg, solicit or panhandle: use of the spoken, written, or printed word, or other acts as are conducted in the furtherance of the purpose of immediately collecting contributions for the use of one's self or others. As used in this ordinance, the word, "solicit," and its forms, includes begging and panhandling.

Financial Institution: any bank, industrial bank, credit union, or savings and loan.

Forcing oneself upon the company of another.

- (1) Continuing to solicit in close proximity to the individual addressed after the person to whom the solicitation is directed has made a negative response, either verbally, by physical sign, by attempting to leave the presence of the person soliciting, or by other negative indication;
- (2) Blocking the passage of the individual solicited; or
- (3) Otherwise engaging in conduct that could reasonably be construed as intending to compel or force a person to accede to a solicitation.

(b) Prohibited acts.

- (1) It shall be unlawful for any person to beg, solicit, or panhandle, as defined in subsection (a), above:
 - a. By accosting another, or by forcing oneself upon the company of another;
 - b. Within 20 feet of the entrance to any financial institution, or any automatic teller machine;
 - c. At any outdoor dining area permitted pursuant to section [16-146](#), or outdoor merchandise area permitted pursuant to section [16-147](#), provided such areas are in active use at the time;
 - d. At any transit stop or taxi stand, or in a public transit vehicle;
 - e. While the person being solicited is standing in line waiting to be admitted to a commercial establishment;
 - f. By touching the person being solicited without that person's consent;
 - g. By blocking the path of a person being solicited or blocking the entrance or exit to any building or vehicle;
 - h. By or with the use of profane or abusive language, during the solicitation or following an unsuccessful solicitation;
 - i. By or with the use of any gesture or act intended to cause a reasonable person to be fearful of the solicitor or feel compelled to accede to the solicitation;

- j. After dark, which shall mean one-half hour after sunset until one-half hour before sunrise, except in the manner permitted in high traffic zones;
- k. While under the influence of alcohol or after having illegally used any controlled substance, as defined in the North Carolina Controlled Substance Act.

(2) Additional restrictions applicable to high traffic zones:

- a. For purposes of this subsection (b)(2) only, the following definitions shall apply:

Beg, solicit or panhandle. The communication, by use of gestures or spoken words, by one person or group of persons directed at another person or group of persons, of a request for the immediate contribution of money, food or goods, to the person or group making the communication, or to others. This definition shall not include transactions between family members or mutual acquaintances.

High traffic zones.

- 1. Zone 1: Within the area defined by a line drawn along the centerline of the following streets: starting at the intersection of Hilliard Avenue and Market Street, west along Hilliard Avenue to the intersection of Hilliard Avenue and French Broad Avenue; then north along French Broad Avenue to the intersection of French Broad Avenue and Haywood Street; then east Haywood Street to the intersection of Haywood Street and Montford Avenue; then north along Montford Avenue to the intersection of Montford Avenue and Cherry Street; then east along Cherry Street to the intersection of Cherry Street and Broadway Street; then south on Broadway Street to the intersection of Broadway Street and Woodfin Street; then east on Woodfin Street to the intersection of Woodfin Street and College Street; then south on Valley Street to the intersection of Valley Street and Marjorie Street; then west along Marjorie Street to the intersection of Marjorie Street and Davidson Street; then south on Davidson Street to the intersection of Davidson Street and Eagle Street; then west along Eagle Street to the intersection of Eagle Street and Market Street; then south on Market Street to the point of beginning.
- 2. Zone 2: Within Biltmore Village Historic District.

- b. Prohibited acts. In addition to the restrictions set forth in section (b)(1), above, it shall be unlawful for any person to beg, solicit, or panhandle, as defined herein, within any high traffic zone.

(c) *Penalty.* A violation of this ordinance is a misdemeanor as set forth in North Carolina General Statute Section 14-4

Sec. 11-14. Solicitation from streets and median strips.

- (a) No person shall stand in a roadway or median strip for the purpose of soliciting a ride, employment or business from the occupant of any vehicle.
- (b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway or parking lot.
- (c) It shall be unlawful for any person to stand, sit or loiter in any street or highway, including the shoulders or median strip but excluding sidewalks, and to stop or attempt to stop any vehicle

for the purpose of soliciting or accepting contributions from the occupants of any vehicle or for the purpose of distributing merchandise to the occupants of any vehicle. It also shall be unlawful for any person to stand, sit or loiter in any street or highway, including the shoulders or median strip but excluding sidewalks, and to solicit or accept contributions from the occupants of any stopped vehicle or to distribute merchandise to the occupants of any stopped vehicle without a permit issued pursuant to N.C. Gen. Stat. § 20-175(e).

(d) If any person is found to have violated any provision of this ordinance, such person or persons shall be guilty of a class 3 misdemeanor and shall be fined not more than \$500.00. Each violation shall constitute a separate offense.



REPORTS

TOWN MANAGER | JUSTIN LONGINO

COUNCILMEMBER TONYA GANTT

COUNCILMEMBER PATRICK LITTON

COUNCILMEMBER CALEB EDWARDS

COUNCILMEMBER MARTY THOMAS

COUNCILMEMBER TOMMY GREENE

MAYOR THOMAS