

**BURNSVILLE TOWN COUNCIL**  
**Regular Meeting - Thursday, July 7, 2022, 6pm**  
**Burnsville Town Center**

On Thursday, July 7, 2022, the Burnsville Town Council with Mayor Russell Fox and members Denise Collier, Randy Ollis and Bill Wheeler present, held a regular meeting at the Burnsville Town Center. Member Judy Buchanan was absent due to illness. Also in attendance were town staff members Heather Hockaday, Niles Howell, Shane Dale, Brian Buchanan, Leslie Crowder, Chad Fox, and Corbin Cooper; and visitors, Former Mayor Danny McIntosh, Christy Wood, Richard Gierloff, Lucy Doll and several local business owners among others. Mayor Fox, who presided, called the meeting to order at 6:02pm and stated that the purpose of the meeting was to conduct business for the month of July 2022. The meeting was streamed live for the public on the Burnsville Town Center's YouTube Channel.

Adoption of Agenda - Councilor Bill Wheeler moved to adopt the agenda as presented. Councilor Denise Collier seconded the motion, which carried. All were in favor.

Public Comment

- Joe Ventrice with the American Red Cross mentioned efforts to coordinate with other agencies to help people who had lost their homes to fire. He informed the Council about the Battle of the Badges blood drive at the Burnsville Fire Station on August 19th.
- Lucy Doll mentioned an upcoming Michael Reno Harrell concert at the Town Center to raise funds for the Lions Club. She also encouraged everyone to take vendor applications for the Old Timey Days Fall Festival.
- Danny McIntosh felt the recently passed budget was reasonable, with the rate increases being modest.

Consideration of Minutes - Minutes from a regular meeting held on June 2, 2022 were considered. Councilor Randy Ollis made a motion to approve the minutes as read. Bill Wheeler seconded the motion, which carried. All were in agreement.

Public Hearings

1. Noise Ordinance

- a. Staff report - Brian Buchanan reported that businesses were looking for clarity on the current ordinance. He said that some situations were in opposition to the current ordinance and exceptions or alterations may be necessary to update the current 24/7 ordinance. Mr. Buchanan had previously presented potential updates that included exceptions for events such as fireworks, festivals, and commercial business entertainment during certain times.
- b. Open public hearing - Denise Collier moved to open the public hearing at 6:11pm. Bill Wheeler seconded the motion, which carried.
- c. Public input
  - i. Danny McIntosh felt that a noise ordinance was useful and necessary. He said that he currently had no noise issues at his residence but had confidence that the Town would solve the issue.
  - ii. John Silver, from Homeplace Beer Co., thanked the Town for taking on the issue. He felt that as the Town grows it would be advantageous to have a modern ordinance. He said that the construction of the new Homeplace outdoor stage had allowed for the hiring of two new employees. He also expressed the ability to alter the volume to comply with the ordinance. Mr. Silver requested that music be allowed to go until 9:45pm or 10pm rather than be measured by a decibel level.

- d. Close public hearing - Randy Ollis moved to close the public hearing at 6:18pm. Bill Wheeler seconded and the motion passed.
- e. Council discussion- Mayor Fox said that if a proposal with general agreement was established, a special meeting could be held to approve the new updates.

Randy Ollis said he was fine with a noise ordinance exception going until 10pm Friday - Saturday and 8:45 or 9:45 Sunday-Thursday. There was some discussion of using a decibel level to monitor noise levels. Chief Buchanan said that just setting a time frame was more simple to enforce. Denise Collier recommended doing a reasonable time frame as noise levels can vary drastically from location to location. Bill Wheeler thought music should be able to go until 9:45 or 10pm. A starting time to allow noise in the morning, exceptions outside of general noise, commercial events, and permits for special events were also discussed.

There was a general agreement on several aspects of the ordinance, including an exception for commercial entertainment in commercial zones from 8am-10pm Friday-Saturday and 8am-9pm Monday-Thursday.

Presentations - There were no presentations.

Manager's Update - Town Manager Heather Hockaday

Project updates - Mrs. Hockaday updated the Council on several FEMA projects, saying that they had all been obligated and a scope of work created for each in order to seek estimates.

Old Fire Dept renovation - The project did not get a rural transformation grant but she said that other funding options are being looked into.

West main sewer interceptor - The field survey is nearly complete with the design phase next. The engineers are comfortable that the DEQ milestones have been met.

DEQ grant applications - Completed in May, the five applications included two sewer and two water projects, and one current loan. Mrs. Hockaday reported that DEQ had recently submitted recommendations to the State Water Infrastructure Authority (SWIA), recommending grant funding for three of the projects and loan funding for the other two. She said SWIA meets on July 13th and 14th and will hopefully approve the recommendations from DEQ.

ARPA State budget amendments - Mrs. Hockaday met with the County Manager and EDC Director about Yancey County's ARPA funds and recent amendments to the state budget. The amendments, still waiting for the Governor's signature, included an additional \$3 million for Yancey County to go towards a rehabilitation of Burnsville's wastewater treatment plant. She said that a joint meeting with the County would be helpful to discuss current projects, SWIA funding, and County priorities. A date of August 2nd was set for the joint special meeting.

History Association lunch - Mrs. Hockaday informed the Council of an invitation from Elaine Boone at the McElroy House to discuss programming and hopes for their facilities.

Search for new IT services - Efforts to find a new IT person have begun. The Town's current IT support, Janice McKinney has been meeting with potential candidates.

Annabelle's Haven appreciation letter - Mrs. Hockaday read a letter from the non-profit that recently held a fundraiser at the Town Center. The letter praised Town Center Manager Corbin Cooper, his

willingness to help, and attention to detail.

**Tax Report:**

Annual tax settlement - Presented each year, she reported that, as of January 30th, 2022, the Town has collected 98.22% of the levy. She also mentioned efforts to collect on delinquent accounts. Mayor Fox moved to accept the annual payment. Bill Wheeler seconded the motion, which carried. All were in agreement.

Order of collections - Mayor Fox moved to approve the Order of Collections. Randy Ollis seconded the motion, which carried. All were in favor.

Clerk's Update - Town Clerk Chad Fox

Road closure request - The Yancey County Sheriff's Department and PATH requested a closure of the northwest corner of the town square on August 20th from 9am-3pm. The Council was in agreement to direct staff to initiate the road closure with NCDOT.

Retention schedule updates - Recent updates to the retention schedules from the State Division of Archives and Records were previously provided to the Council. Randy Ollis made a motion to approve the updated General and Program retention schedules. Bill Wheeler seconded the motion, which carried.

Due to the Mt. Mitchell Crafts Fair, a date for August 11 was set for the next regular Council meeting.

Department Updates

1. Public Works - Public Works Director Shane Dale
  - i. WWTP gear drive - Mr. Dale reported that the drive was installed and working well.
  - ii. New flex position update - Several applications have come in and they should be reviewed soon.
  - iii. Raw water intake generator update - Mr. Dale said that the generator estimate is about \$71,000. Bill Wheeler moved to approve the purchase of a new generator for the raw water intake station. Denise Collier seconded the motion, which carried. All were in agreement.
2. Finance - Finance Officer Leslie Crowder - A budget vs. actual dated June 30, 2022 and overtime report was previously provided to the Council.
3. Fire Department - Fire Chief Niles Howell presented a call report for the month of June, reflecting a seasonal increase in auto accidents.

Chief Howell mentioned the recent open house for the new fire station, the beginning of annual hose testing, the completion of annual ladder testing, and participating in community education with Burnsville Elementary's summer camp.

4. Police Department - Police Chief Brian Buchanan distributed call logs and updated the Council on upcoming active shooter training for several policemen.
5. Zoning/Code Enforcement - Zoning Administrator Brian Buchanan mentioned an upcoming planning board meeting and recommendations that will be coming their way.
6. Burnsville Town Center - Town Center Manager Corbin Cooper updated the Council on upcoming live events.

Council Members' Reports

- Bill Wheeler updated the Council on a recent meeting with the High Country Council of Governments.

Updates from Advisory Boards and Non-Profits

- Economic Development Commission - EDC Director Jamie McMahan said that the EDC board voted to award the Fifteenth Downtown Entrepreneurship Assistance Program grant to Appalachian Java's new owner Juliana Pitman.

He said that the building reuse grant with Mountain Community Health Partnership's Clinic on Pensacola had concluded, supporting the hiring of 16 new employees.

Mr. McMahan mentioned an upcoming meeting with the Governor's staff to encourage passage of the budget. He then noted a total of \$27 million that may be received by the Town and County for projects that the community should be proud of. He also thanked the Town Council for their budgetary support of the Yancey EDC.

- Yancey/Burnsville Chamber of Commerce - Chamber Director Christy Wood updated the Council on attending the fire department open house, a visit to the new planetarium, and a ribbon cutting for the new wellness center at Mountain Air. During the upcoming month, the Chamber will host a remote workers event, a business breakfast with the Western Women's network, and a business after hours with the Parkway Playhouse. She said that the Crafts Fair is full and should be a great event.
- High Country Council of Governments - The most recent minutes were made available prior to the meeting.
- Mayor Fox said he was pleased to hear that the Town and County are working together with the active shooter training and thanked Sheriff Shane Hilliard for adding resource officers to the schools. He expressed gratitude for the preparations if a threatening event were to ever occur.

Closed Session - There was no closed session.

Next Town Council Meeting - August 11, 2022, 6pm

Adjourn - With there being no further business, Randy Ollis moved to adjourn the meeting at 7:11pm. Bill Wheeler seconded the motion, meeting adjourned.

  
J. Chad Fox, Town Clerk



  
T. Russell Fox, Mayor

Russell Fox  
*Mayor*  
Heather Hockaday  
*Town Manager/Attorney*  
Chad Fox  
*Town Clerk*

## Town of Burnsville



*Councilors:*  
Judy Buchanan  
Denise Collier  
Randy Ollis  
Bill Wheeler

### **PUBLIC HEARING NOTICE**

The Public shall take notice: that on July 7, 2022 at 6:00 p.m., during its regular monthly business meeting, the Burnsville Town Council will hold a public hearing at the Burnsville Town Center 6 South Main Street, Burnsville, North Carolina. The purpose of the public hearing is to take public comments on amendments to the Town of Burnsville's noise ordinance.

A copy of the current noise ordinance for the Town of Burnsville is available for review on the Town of Burnsville's website and at Town Hall.

All interested parties are encouraged to attend. Individuals requiring special accommodations for this meeting, or for other questions and concerns, please contact the Town Clerk at (828) 682-2420.

## Current Noise Ordinance

### CHAPTER 130: GENERAL OFFENSES

#### Section

- 130.01 Noise generally
- 130.02 Particular noise
- 130.03 Discharge of firearms and air rifles
- 130.04 Operation of public enterprises without franchise
- 130.05 Curfew for minors
- 130.06 Consumption of beer and wine on public property prohibited
- 130.07 Abusive language
  
- 130.99 Penalty

#### § 130.01 NOISE GENERALLY.

No person may authorize or cause to be emitted from any property or source under his or her control any noise that is both:

(A) Sufficiently loud to frighten or pose a danger to the health of or seriously disturb any person who:

(1) If the noise emanates from a source located on private property, is located on other property; or

(2) If the noise emanates from a street or other public property, is located on private property or the street or other public property.

(B) Louder, or of greater duration, or otherwise more disturbing than is reasonably necessary for the performance of some lawful public or private function, enterprise, operation or activity.

(1980 Code, § 5-1) Penalty, see § 130.99

**§ 130.02 PARTICULAR NOISE.**

The following are declared to be illustrations of noises prohibited under § 130.01 and are hereby declared to be unlawful, but this list shall not be exhaustive:

(A) The blowing of a horn on any motor vehicle except when the horn is used as a warning device;

(B) The operation of any motor vehicle without a muffler or with a muffler that is so defective or so designed that the vehicle emits an unusually loud noise;

(C) The operation of a motor vehicle so as to create unnecessary and unusual noise through the screeching of tires or racing of engines;

(D) The playing of any radio, television, tape recorder, phonograph or similar electronic device or any musical instrument so as to disturb the comfort, quiet or repose of persons in any place of residence or so as to interfere substantially with the operations of any church, school, hospital, theater, library or other similar place of assembly; and

(E) The use of any drum, loudspeaker or other amplification instrument or device for the purpose of attracting attention by the creation of noise to any performance, show, sale, display, advertisement of merchandise or other commercial venture.

(1980 Code, § 5-2) Penalty, see § 130.99

## Burnsville Noise Ordinance

*Section 130.01 is our current noise ordinance language*

### 130.01

No person may authorize or cause to be emitted from any property or source under his or her control any noise that is both:

- A. Sufficiently loud to frighten or pose a danger to the health of or seriously disturb any person who:
  - 1. If the noise emanates from a source located on private property, is located on other property or,
  - 2. If the noise emanates from a street or other public property, is located on private property or the street or other public property.
- B. Louder, or of greater duration, or otherwise more disturbing than is reasonably necessary for the performance of some lawful public or private function, enterprise, operation or activity.

*The next 2 sections are proposed additions to the ordinance. The first section are proposed exceptions for festivals and commercial businesses. The second section would be the inclusion of a permit application which would allow an individual or business to receive a temporary exception to the ordinance. Both are provided as a discussion starting point with regards to the specific changes the Board might want to implement to the ordinance.*

### 130.97 Exceptions

The following are exempt from the provision of this article

- 1) Sounds emanating from commercial business establishments located within commercial zoning districts for the purposes of entertainment for the patrons of that business between the hours of 9:00am and 9:00pm.
- 2) Sounds emanating from festivals, parades or other events that are approved by the Burnsville Town Council.
- 3) Noise from lawful fireworks and noisemakers on holidays and at religious ceremonies.
- 4) Noise resulting from any authorized emergency vehicle when responding to any emergency call or acting in a time of emergency.
- 5) Musical accompaniment or firearm discharge related to military ceremonies.
- 6) Any other noise resulting from activities of a temporary duration permitted by law, and for which a permit has been issued according to the limits and conditions contained within this chapter.



### 130.98 Permits to exceed limits.

1. A person or group of persons may produce or cause to be produced sound prohibited in section 130.01 and not listed as an exemption in section 103.97 of this chapter, only if a permit to exceed the limit for the time and place of the activity has been obtained.
2. Any person or group of persons desiring a permit shall apply as provided herein, and shall provide all the information required. All applications shall be submitted to the Chief of Police or his designee at least seven (7) days prior to the scheduled event. Failure to comply with this requirement may be grounds for denying the permit.
3. The Chief of Police or his designee shall have authority to take final action on all applications for permits specified in this article. In considering acting to approve or deny issuance of permits, the Chief of Police or his designee shall consider, but shall not limit consideration to the following:
  - a. the timeliness of the application; the nature of the requested activity;
  - b. previous experience with the applicant;
  - c. the nature of the event;
  - d. other activities in the vicinity of the location proposed;
  - e. the frequency of the application;
  - f. the cultural or social benefit of the proposed activity;
  - g. the effect of the activity on the residential areas of the town;
  - h. previous violations of the requirements of this article, if any, by the applicant.
4. Permits to exceed limits shall specify the duration for which noncompliance shall be permitted and may prescribe the conditions or requirements necessary to minimize adverse effects upon the community or surrounding neighborhood. The Chief of Police or his designee may require, without limitation, the following:
  - a. That no sound speakers shall be set up more than ten feet above the ground;
  - b. That the permit holders change the arrangement of loudspeakers or sound instruments so as to minimize the disturbance to others resulting from the position or orientation of the speakers or from atmospherically or geographically caused dispersal of sound beyond the property lines.
5. Permit holders shall agree to cooperate with the Police Department in enforcing the Noise Control Ordinance by having signers of the permit available at the site of the event during the entire time for which as permit has been issued and capable of assisting the police in enforcing the noise control ordinance. Failure of the permittee or designees to be present or to assist the police in compliance with this article will result in revocation of the permit.

**Annual Settlement and Order of Collection  
for Approval by the Burnsville Town Council**

Pursuant to the provisions of North Carolina General Statute 105-373, this memorandum is the Tax Collector's report of Settlement to the Burnsville Town Council for fiscal year 2022.

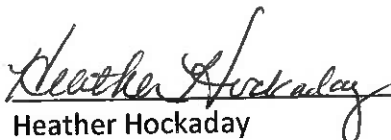
At the beginning of each fiscal year, the Tax Collector must provide to the Town Council an annual settlement of property tax collected in the previous fiscal year for approval, prior to being charged to collect taxes for the current fiscal year.

Included in this settlement are three primary requirements:

- List of unpaid taxes for 2021 fiscal year
- Sworn settlement of all taxes collected in the prior fiscal year

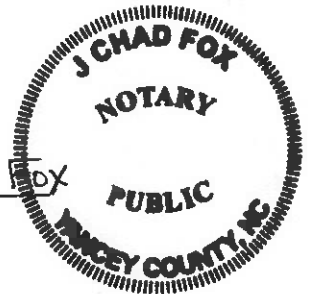
I certify the information contained in the fiscal year 2022 annual settlement has been reviewed and to my knowledge is true and accurate and that I have made diligent efforts to collect the taxes due from the persons listed in such a manner that is reasonably necessary.

Respectfully submitted,

  
Heather Hockaday  
Tax Collector

SWORN AND SUBSCRIBED BEFORE ME, this the 30<sup>th</sup> day of June, 2022.

  
NOTARY PUBLIC



My Commission Expires: 10-13-25

Following approval of the Tax Collector's Annual Settlement of the preceding year, pursuant to NCGS 105-321, an order of collection to the Tax Collector must be adopted for the 2022 tax year authorizing the collection of the current fiscal year property taxes.

<b>FISCAL YEAR 2021 PROPERTY TAX</b>					
NET LEVY	COLLECTED	UNCOLLECTED	PERCENT COLLECTED		
\$844,675.13	\$829,876.56	\$14,798.57	98.22%		
<b>REGULAR LEVY PRIOR YEAR COLLECTIONS IN FISCAL YEAR 2021</b>					
TAX YEAR	LEVY DUE	COLLECTED	UNCOLLECTED		
2020	\$18,718.54	\$16,586.01	\$2,132.53		
2019	\$3,842.00	\$1,286.78	\$2,555.22		
2018	\$2,842.96	\$846.29	\$1,996.67		
2017	\$881.39	\$157.00	\$724.39		
2016	\$833.13	\$183.25	\$649.88		
2015	\$485.80	\$13.98	\$471.82		
2014	\$510.10	\$0.00	\$510.10		
2013	\$2,110.15	\$288.93	\$1,821.22		
2012	\$923.57	\$346.34	\$577.23		
2022 PREPAID AMOUNT COLLECTED: \$1029.82					

# Tax Delinquent Report By Year

Town of Burnsville

Date: 6/30/2022

Account	Customer Name	Tax Year	Amount Owed
84	BARNETT, DERWIN	2021	\$288.46
732	BROWN, JANICE LOU ANN	2021	\$778.26
1541	CHAVEZ, JOSE MARTIN GARCIA	2021	\$540.61
2707	CLOUSE, JAMES W	2021	\$201.78
583	DELLINGER, CHARLES R & KEVIN	2021	\$1,449.57
1071	DELLINGER, CHARLES RANDALL	2021	\$805.57
1564	DELX INC	2021	\$2,238.43
998	DOVER, ARTHUR N & ANNIE	2021	\$333.27
2721	FISHER, BRADLEY	2021	\$661.36
2469	GALLOWAY, JASON TEW	2021	\$21.76
1636	GARCIA, JOSE MARTIN	2021	\$239.23
2053	GREENE, KAYE	2021	\$8.26
171	GREENE, KAYE	2021	\$83.42
1814	GRIGGS, DARRELL & CATHERINE	2021	\$3.49
612	HAMLETTE, SAMANTHA PHIPPS & H A PHIPPS JTWRs	2021	\$360.86
1009	HENSON, MELVIN	2021	\$255.75
1681	HIGGINS, JOSEPH L & HEIDI	2021	\$957.85
512	HIGGINS, LAWERENCE RAY TRUSTEE	2021	\$428.26
1700	JOHN VAN ZANDT ESTATE	2021	\$109.85
991	KEATING, FRANK	2021	\$398.12
137	KEATING, FRANK	2021	\$436.44
2219	LIL SMOKY DRIVE -IN	2021	\$29.02
183	LOIS D HERB TRUST CHARLES E FLOWERS III TRUSTEE	2021	\$174.81
149	MCCARTY, ERNEST D & DEBORAH D	2021	\$355.54
231	MCCOURRY, TROY WADE	2021	\$457.06
1150	MCCOURRY, TROY WADE	2021	\$117.55
1151	MCINTOSH, JOHN M & ELIZABETH P	2021	\$135.07
332	MEADE, DONOVAN C & SARAH E	2021	\$363.88
2558	PAPPY'S GUNSMITHIN & BACKWOODS LIVIN'	2021	\$28.55
2079	PATE, JOSEPH P	2021	\$40.80
2138	PROCOPIO, PEDRO	2021	\$9.37
2550	RHA HEALTH SERVICES	2021	\$17.54
2550	RHA HEALTH SERVICES	2021	\$11.30
466	ROLAND, E J & LOIS	2021	\$256.84
1121	SEROTA BURNSVILLE LLC	2021	\$12.24
2255	SIX CHRIS PRODUCTS INC	2021	\$20.54
2657	SOUTH CHARLOTTE SPINE & WELLNESS CENTER	2021	\$54.65
2271	TROY'S GREENHOUSES & FABRICS	2021	\$16.17
2774	VINEYARD CAPITAL PARTNERS LLC	2021	\$92.99
2775	WARREN, ANDREW M (1/2) & WARREN, ALLISON D (1/2)	2021	\$9.23
260	WOLFHEAD DEVELOPMENT LLC	2021	\$262.35
599	WOODY, FRANKLIN BRYATT	2021	\$1,056.30
2670	WRIGHT FAMILY RESTAURANT INC	2021	\$641.20
2280	YANCEY THEATER	2021	\$34.97

# Tax Delinquent Report By Year

Town of Burnsville

Date: 6/30/2022

Account	Customer Name	Tax Year	Amount Owed
		Total Amount:	\$14,798.57

## Tax Years and Totals


2021	\$14,798.57
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**STATE OF NORTH CAROLINA  
TOWN OF BURNSVILLE**

**TO THE TAX COLLECTOR OF THE TOWN OF BURNSVILLE:**

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of Town of Burnsville Tax Collection and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the Town of Burnsville, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this the 7<sup>th</sup> day of July, 2022.

  
\_\_\_\_\_(SEAL)  
MAYOR, Town of Burnsville North Carolina


Attest:

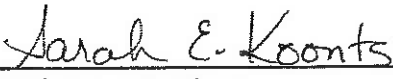
  
\_\_\_\_\_  
Town Clerk




It is further agreed that these records may not be destroyed prior to the time periods stated; however, for sufficient reason they may be retained for longer periods. This schedule supersedes previous versions of this schedule and any localized amendments; it is to remain in effect from the date of approval until it is reviewed and updated.


**APPROVAL RECOMMENDED**

  
\_\_\_\_\_  
Municipal/County Clerk or Manager  
Title: Town Clerk

  
\_\_\_\_\_  
Sarah E. Koonts, Director  
Division of Archives and Records

**APPROVED**

  
\_\_\_\_\_  
Head of Governing Body  
Title: Mayor

  
\_\_\_\_\_  
D. Reid Wilson, Secretary  
Department of Natural and Cultural  
Resources

Municipality/County: Town of Burnsville, NC

Effective: October 1, 2021

APPROVAL RECOMMENDED

J. Cruz  
Municipal/County Clerk or Manager  
Title: Town Clerk

Sarah E. Koonts  
Sarah E. Koonts, Director  
Division of Archives and Records

APPROVED

T. Russell Fox  
Head of Governing Body  
Title: Mayor

D. Reid Wilson  
D. Reid Wilson, Secretary  
Department of Natural and Cultural  
Resources

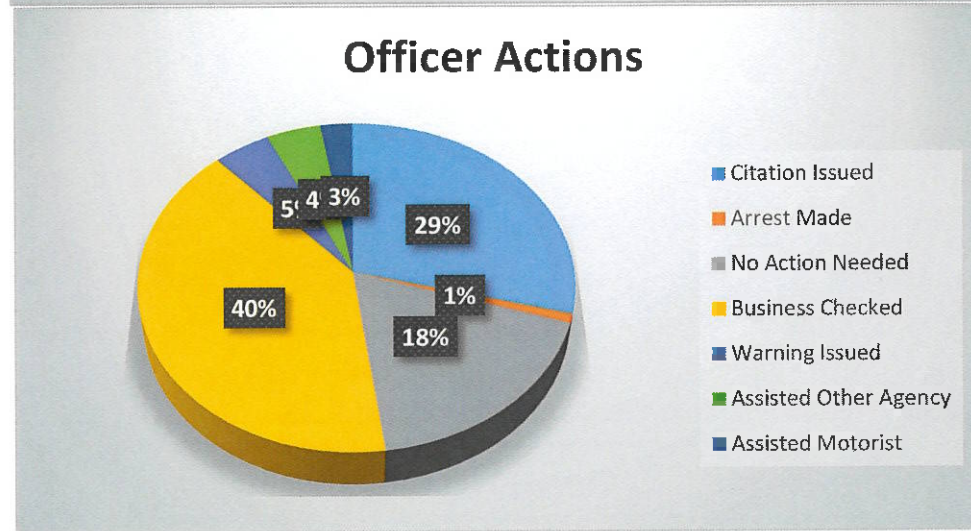
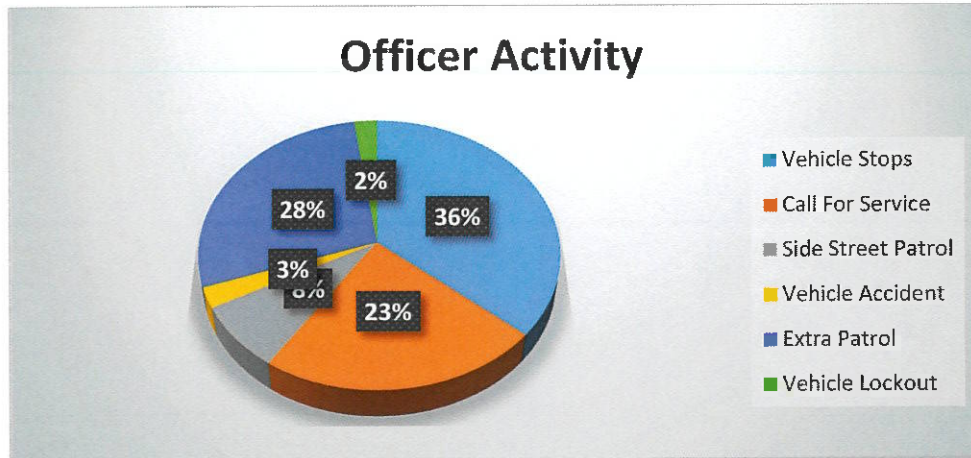
County/Municipality: Town of Burnsville, NC

Effective: October 1, 2021



# Officer Activity Logs

## June 2022



Vehicle Stops	119	Citation Issued	99
Call For Service	76	Arrest Made	3
Side Street Patrol	36	No Action Needed	61
Vehicle Accident	8	Business Checked	137
Extra Patrol	92	Warning Issued	16
Vehicle Lockout	7	Assisted Other Agency	15
		Assisted Motorist	9